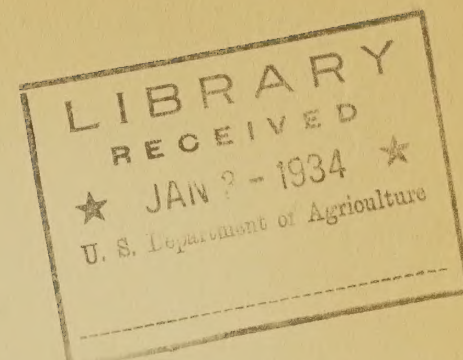


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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION.

REVISED SUBSTITUTE FOR THE
PROPOSED MARKETING AGREEMENT
FOR THE DISTILLED SPIRITS INDUSTRY
AS SET FOR HEARING ON
November 24, 1933.

This document has been filed with the Chief Hearing Clerk, Agricultural Adjustment Administration, as a revision of the tentative substitute previously submitted for the proposed Marketing Agreement for the Distilled Spirits Industry, which has been set for hearing on Friday, November 24, 1933. This revised substitute will be presented for the record on behalf of the President's Special Committee on the Control of Alcohol and Alcoholic Beverages, at the hearing upon the proposed Marketing Agreement. This revised substitute is presented as a basis for the presentation of evidence with respect to the policies incorporated therein, and is not to be regarded as a final expression of the views of the Special Committee.

CODE OF FAIR COMPETITION FOR THE DISTILLED SPIRITS INDUSTRY

ARTICLE I

Purposes.

WHEREAS, it is the declared policy of Congress as set forth in Section I of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor, and management under competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

And --

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And --

WHEREAS, it is in the best interests of the public that all industries engaged in the production or distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries, --

NOW, THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the Distilled Spirits Industry and upon approval by the President shall be the standards of fair competition for such industry and shall be binding upon every member of such industry in the United States; and neither the promulgation of this Code nor any action taken thereunder by the Federal Alcohol Control Administration or by any member of the distilled spirits industry shall be construed as giving any member of such industry a vested right to continue to participate in the production or distribution of distilled spirits in the United States.

ARTICLE II

Definitions.

Section 1. As used in this Code, --

- (a) The term "President" means the President of the United States.
- (b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.
- (c) The term "person" means individual, partnership, corporation, association, and any other business unit.
- (d) The terms "distilled spirits industry" and "industry" mean (a) the production of distilled spirits, or (b) the brewing or making of mash, wort, or wash fit for the production of distilled spirits, or (c) the separation of alcoholic spirits by a process of evaporation from any fermented or other substance, or (d) the bottling, warehousing or other handling or distribution of distilled spirits, or the sale or other disposition thereof, except at retail, by a distiller or an affiliate or subsidiary thereof; but do not include blending or rectification of distilled spirits.
- (e) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof.
- (f) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.
- (g) The term "employer" means any person by whom any such employee is compensated or employed.
- (h) The term "watchman" includes only employees whose principal function is watching and guarding the premises and property of the establishment.
- (i) The term "outside salesman" means any salesman who perform exclusively selling functions and do not deliver.
- (j) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.
- (k) The term "Administration" means the Federal Alcohol Control Administration, established pursuant to Article XII.
- (l) The term "Director" means the director of the Federal Alcohol Control Administration.
- (m) The term "Code Authority" means the authority established pursuant to Article XII, Section 5 of this Code.

(n) The term "State" includes Territory and the District of Columbia.

(o) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(p) The term "subsidiary" means any person, of or over whom, a member of the industry has either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(q) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry whether by stock ownership or in any other manner.

ARTICLE III

Hours of Labor.

Section 1. No employee shall be permitted to work in excess of 42 hours in any one week or 8 hours in any one day or 6 days in any seven day period with the following exceptions:

(a) Executive, supervisory, technical and administrative employees provided that they receive regularly \$35.00 a week or more, and outside salesmen.

(b) Technical men who are paid less than \$35.00 per week and who do not constitute more than 2 percent of the total number of employees, but each plant shall be entitled to at least one.

(c) Watchmen, provided, however, that they shall not work more than 56 hours per week.

(d) Chauffeurs and deliverymen, provided, however, that they shall not work more than 48 hours per week nor more than 6 days in any seven day period.

Section 2. The maximum hours established shall not apply in those departments or divisions of the distilled spirits industry in which peak or seasonal demand places an unusual or temporary burden on production in such departments and divisions except that in such cases employees may work not to exceed 48 hours per week and 10 hours per day in any twenty weeks' period in any calendar year, but in any such case at least time and one-third shall be paid for all hours worked in excess of 42 hours per week and 8 hours per day.

Section 3. The maximum hours fixed in the foregoing sections shall not apply to employees on emergency repair work, provided that any such employee working in excess of forty-two hours per week or eight hours per day shall be paid at the rate of at least time and one-third for such overtime.

Section 4. No employer shall knowingly permit any employee to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.

ARTICLE IV

Wages

Section 1. No clerical, accounting or other office employee shall be paid at a rate of less than \$16.00 per week, except that office boys and/or office girls and messengers may be employed at not less than \$14.00 per week.

Section 2. No watchman shall be paid at a rate of less than \$16.00 per week.

Section 3. No employee other than those covered in paragraphs (1) and (2) above shall be paid at a rate of less than 40¢ per hour.

Section 4. It is agreed that this Code guarantees a minimum rate of pay regardless of whether employee is compensated on the basis of time rate or piece work performance.

Section 5. It is agreed that equitable adjustments will be made in the cases of those employees now receiving more than the minimum in order to maintain fair differentials between employees.

ARTICLE V

General Labor Requirements

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment, to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing: and

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

Section 4. On and after the effective date of this Code, no person under 18 years of age shall knowingly be permitted to work in the industry.

Section 5. Within each state, members of the industry shall comply with any valid laws of such state or valid local ordinances imposing more stringent requirements, regulating the minimum age of employment, wages, hours of work, health, fire or general working conditions, than under this Code, provided that any person violating any of the provisions thereof shall be amenable only to the penalties of such state law or local ordinances.

Section 6. Employers shall not reclassify employees or duties of occupations performed by employees for the purposes of defeating the provisions of the Act.

Section 7. Each employer shall post in a conspicuous place of easy and continuous access to employees the articles dealing with hours, wages, and general labor provisions of this Code.

Section 8. All changes in the provisions of Article III and IV, or of this Article, shall be posted within one week after such changes have been incorporated in the Code.

ARTICLE VI

Permits

Section 1. No person shall engage in the distilled spirits industry except pursuant to a permit issued by the Director. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Articles III, IV and V) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business, or any right to engage in the manufacture or distribution of any class of distilled spirits after the termination of the permit.

Section 2. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of The Administration, for violation of any term or condition thereof.

Section 3. Nothing in this Article shall be construed to limit or modify in any way whatsoever any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE VII

Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False advertising. To publish or disseminate in any manner any false advertisement of any distilled spirits. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any distilled spirits that are misbranded. Distilled spirits shall be deemed to be misbranded -

(a) Food and Drugs Act requirements. If they are misbranded within the meaning of the Food and Drugs Act.

(b) Standards of fill. If their container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of identity. If they purport to be or are represented as distilled spirits for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) Standards of quality. If they purport to be or are represented as distilled spirits for which standards of quality have been prescribed by regulations of the Administration, and (1) fail to state on the label, if so required by the regulations, their standard of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(e) Label requirements. If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulation prescribe.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase industry products of a particular make or from a particular dealer or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

Section 4. Shipment or Delivery on Consignment. To make or enter into any agreement or contract the effect of which will amount to the shipment and/or delivery of distilled spirits on consignment.

Section 5. Advertising Allowances and Rebates. To pay a trade buyer for a special advertising or distributing service.

Section 6. Guarantees Against Decline. To make or give to any purchaser of distilled spirits any guarantee or allowance in any form against or as a result of decline in the market price thereof.

Section 7. Prizes and Premiums. To offer any prize, premium, gift, or other similar inducement to either a trade or a consumer buyer.

Section 8. Control of Retail Outlets. To hold any interest in any license for the sale of distilled spirits at retail, or in any premises used therefor; or in any way, directly or indirectly, to participate or engage in the retail sale of distilled spirits; or to have control of, employ, manage, or financially assist in any manner, any person engaging in the retail sale of distilled spirits.

Section 9. Sales to Unauthorized Vendors. To sell or otherwise dispose of distilled spirits to any person not authorized by license, in full force and effect, to sell, manufacture or distribute distilled spirits, if such a license is required of such person by State law; or to sell or otherwise dispose of distilled spirits to any member of an industry covered by any intoxicating beverages code under the Act, if such member is engaged in business without a permit in full force and effect under such code and such a permit is required by the code.

Section 10. Violations of State Law. To transport or import distilled spirits into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such State.

ARTICLE VIII

Bottling

Section 1. Members of the industry shall sell or dispose of distilled spirits in bottles only, except in case of sales to rectifiers or blenders, or to dispensaries or other agencies operated and maintained by any State or political subdivision thereof.

ARTICLE IX

Prices and Terms of Sale

Section 1. Each member of the industry shall keep posted with the Administration, in accordance with regulations prescribed by it, a price list which shall set forth (a) all the products offered for sale by such member, (b) the sale price of such products to various classes of trade or consumer buyers, and (c) all other terms and conditions of sale of such product. No sale or other disposition of distilled spirits shall be made by any member of the industry except in accordance with prices, terms, and conditions which ^{have been} posted and which have not been declared ineffective under Section 2 of this Article.

Section 2. If the Administration finds after investigation that any posted price list contains, in whole or in part, prices or terms or conditions which constitute destructive price cutting or are so excessive as to encourage the sale of distilled spirits in violation of law, it is authorized to declare such prices or terms or conditions ineffective.

Section 3. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not extended to all under the terms and conditions of sale as disclosed in the posted price list, is prohibited.

Section 4. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts or terms or conditions of any sale, or the inserting in any invoice of statements which made the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE X

Control of Plant Capacity and Production

Section 1. No member of the industry shall produce or store distilled spirits in an amount or at a rate greater than that of which his plant was capable under efficient conditions of operation on the date of the repeal of the Eighteenth Amendment or on the effective date of this Code, whichever is earlier; except that the Administration, upon application, shall give notice and afford opportunity for hearing, and shall issue to a member of the industry, or a person desiring to become a member of the industry, a certificate permitting the use of additional or new plant capacity, if, in the judgment of the Administration, the plant capacity then in existence is inadequate to meet consumptive demands.

Section 2. If, after such investigation as it deems necessary, the Administration finds that the economic condition of the industry is or might become unbalanced, or if other conditions exist or are likely to exist which will tend to prevent the effectuation of the declared policy of the Act or the purposes of this Code, the Administration may limit the production and distribution of distilled spirits and allocate the production thereof among the members of the industry, and/or provide for the orderly distribution of accumulated stocks.

ARTICLE XI

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (1) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code and/or (2) enabling the Administration

or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes and/or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require that his subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE XII

Federal Alcohol Control Administration

Section 1. The provisions of this Code (except those relating to hours of labor, rates of pay, and other conditions of employment) shall be administered by a Federal Alcohol Control Administration, to be composed of five officers of the Executive Branch of the Government, to be designated by the President from time to time. The President shall designate from among the members of the Administration a Chairman, who shall also be the Director for the Administration. The Administration shall fix the compensation and define the powers and duties of the Director. The Director shall appoint and fix the compensation of such officers and employees of the Administration, and shall make such expenditures as may be necessary to carry out the functions of the Administration. Expenditures of the Administration, unless otherwise provided for, shall be paid from such funds as the President may allocate from monies available for carrying out the purposes of Title 1 of the National Industrial Recovery Act.

Section 2. The Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 3. The Administration may utilize the services of the Bureau of Internal Revenue, the Agricultural Adjustment Administration, the Food and

Drugs Administration, and other agencies of the Government in performing its functions under this Code. The President may allocate to any agency of the Government whose services are so utilized, such monies available for carrying out the purposes of Title 1 of the National Industrial Recovery Act as may be necessary.

Section 4. The Administration may make such investigations and studies as it deems necessary to aid it in performing its functions.

Section 5. The Administration shall offer the members of the industry the opportunity to establish, under regulations prescribed by the Administration, a Code Authority representative of the Distilled Spirits Industry. Members of the Code Authority shall be selected by the members of the industry, subject to the approval of the Administration, and shall be subject to removal in the discretion of the Administration. The expenses of the Code Authority shall not be borne by the Administration. The Code Authority shall cooperate with the Administration and the National Recovery Administrator in carrying out this Code, and shall have the following powers and duties: (a) to act as an agency through which members of the industry may make recommendations to effectuate the declared policy of the Act; and (b) to serve as one of the agencies through which reports of apparent violations of this Code may be received and submitted to the Director or the National Recovery Administrator, whichever is appropriate. In addition, the Code Authority shall have such powers and duties as may be prescribed by regulations of the Administration. None of the foregoing powers of the Code Authority shall be deemed to limit the power of the Administration.

Section 6. Regulations establishing the Code Authority and those prescribing its powers and duties shall be subject to modification by the Administration from time to time.

ARTICLE XIII

Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XIV

Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XV

Modification

Section 1. This Code and all the provisions thereof are expressly

MARKETING AGREEMENT FOR THE
DISTILLED SPIRITS INDUSTRY

ARTICLE I

Purposes

The parties to this agreement are the contracting distillers and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress as set forth in Section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended, -

- (a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909 - July 1914, and in the case of tobacco, the base period being the post-war period, August 1919-July 1929;
- (b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and
- (c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909 - July 1914;- and-

WHEREAS, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of correcting conditions now existing in the marketing of domestic agricultural commodities ordinarily used in the distilled spirits industry, and of effectuating the declared policy of the Act, desire to enter into a marketing agreement under the provisions of section 3 (2) of the Act;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE II

Definitions.

Section 1. As used in this Agreement, -

(a) The term "Secretary" means the Secretary of Agriculture of the United States.

(b) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other alcoholic spirits for beverage use, produced by the separation of alcoholic spirits by a process of evaporation from any fermented or other substance.

(e) The term "contracting distiller" means any person, a party signatory to this Agreement, according to the terms thereof, who is engaged in the production of distilled spirits in the United States.

(f) The term "United States" includes the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and Island of Guam.

(g) The term "domestic agricultural commodities" means agricultural commodities raised or produced in the United States, and molasses or any other product processed or derived directly or indirectly therefrom.

(h) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, correspondence or other written data pertaining to the business of the person in question.

(i) The term "subsidiary" means any person, of or over whom, the contracting distributor or contracting producer has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(j) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting distributor or contracting producer, whether by stock ownership or in any other manner.

(k) The term "Administration" means the Federal Alcohol Control Administration established pursuant to the provisions of the Code of Fair Competition for the Distilled Spirits Industry.

(1) The term "Code Authority" means the Code Authority established pursuant to the provisions of the Code of Fair Competition for the Distilled Spirits Industry.

ARTICLE III

Use of Cereal Grains

Section 1. Except as provided by special permit issued pursuant to Article V, each contracting distiller agrees to manufacture the distilled spirits produced by him, exclusively from cereal grains or their products; provided that this shall not prevent the use of such manufacture of any commodity stored on premises of the contracting distiller on the effective date of this Agreement.

Section 2. This Article shall not apply to rum or brandy.

ARTICLE IV

Payment of Parity Price

Section 1. As used in Articles IV and V, the term "basic distilling commodity" means grain, sugar beets, or sugar cane raised or produced in the United States; and the term "basic distilling product" means molasses or other products processed or derived directly or indirectly from basic distilling commodities.

Section 2. Each contracting distiller agrees to pay for all basic distilling commodities and products, used by him in the manufacture of distilled spirits, a total amount per unit not less than the fair exchange value therefor. The fair exchange value shall be promulgated hereunder by the Secretary from time to time. The fair exchange value for basic distilling commodities shall be as defined in the Act; and the fair exchange value for basic distilling products shall be determined in accordance with conversion factors to be established by the Secretary.

Section 3. For the purposes of this Agreement the Secretary shall promulgate hereunder from time to time a current average farm price for basic distilling commodities and products. The current average farm price for basic distilling commodities shall be determined as provided in the Act; and a current average farm price for basic distilling products shall be determined in accordance with conversion factors to be established by the Secretary.

Section 4. Whenever the sum of (1) the current average farm price for any basic distilling commodity or product used by contracting distillers, plus (2) the processing or other tax under the Act, if any, paid with respect thereto or with respect to the commodity from which processed or derived directly or indirectly, is less than the fair exchange value for such commodity or product, the contracting distillers shall pay the amount of such differences (hereinafter known as the parity payment) into the Treasury of the United States or such other depository as may be designated by regulations of the Administration.

Section 5. Payments under this section shall be made at such times and in such manner, and shall be computed in accordance with such requirements, as may be prescribed by regulations of the Administration. Such amounts shall be utilized for rental or benefit payments or other disbursements under the Act made with respect to grain, sugar beets, or sugar cane.

ARTICLE V

Special Permits.

Section 1. In order to make available an adequate supply of materials to be used in the manufacture of the various classes of distilled spirits, special permits may be issued by the Secretary, in his discretion, to any contracting distiller to purchase and use other than domestic grains or their products in the manufacture of distilled spirits. The Secretary shall specify in any such permit the commodity, source, and quantity permitted to be so used, the period during which the commodity may be so purchased and used, and such other terms and conditions as may be necessary. Such permits shall not be issued whenever, in the judgment of the Secretary, the issuance of such permits will prevent or tend to prevent the effectuation of the declared policy of the Act.

Section 2. It shall be a condition of any such permit that the permittee shall pay an amount, per unit of the commodity used under permit, equal to the parity payment, if any, then in effect per equivalent unit of the basic distilling commodity or product, if any, normally used, or available for use by the permittee. In addition, if no processing or other tax under the Act is in effect with respect to the commodity used under permit, the amount to be so paid shall be increased by the amount of the processing or other tax under the Act, if any, then in effect per equivalent unit of such basic distilling commodity or product.

Section 3. Payments under this Article shall be paid into the Treasury of the United States or such other depository as the Administration may by regulation provide; and shall be made at such times and in such manner, and shall be computed in accordance with such requirements, as may be prescribed by regulations of the Administration. Such payments shall be utilized in the same manner as payment under Article IV.

Section 4. The Secretary shall by regulation establish such conversion factors as may be necessary for the purposes of this Article.

ARTICLE VI

Reports

Section 1. The contracting distillers shall severally, from time to time, upon the request of the Administration or the Secretary, furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purposes of (1) assisting the Administration or the Secretary in the furtherance of their powers and duties with respect to this Agreement, and/or (2) enabling the Administration or the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath.

Section 2. The contracting distillers also severally agree that, for the same purposes, and/or to enable the Administration or the Secretary to verify the information furnished on said forms of report, all their books and records, and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Administration or the Secretary.

Section 3. Contracting distillers shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall require their respective affiliates and subsidiaries^{to} keep such books and records.

Section 4. All information furnished the Administration or the Secretary pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration or the Secretary, respectively.

ARTICLE VII

Administration

The

Section 1. / provisions of this Agreement, except as otherwise provided, shall be administered by the Federal Alcohol Control Administration established pursuant to the Code of Fair Competition for the Distilled Spirits Industry.

Section 2. The Administration and the Secretary shall each prescribe such regulations as may be reasonably necessary to carry out their respective functions under the provisions of this Agreement, and may make such interpretations of such provisions and regulations as they respectively deem necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Agreement.

Section 3. The Administration may utilize the services of the Bureau of Internal Revenue and other agencies of the Government in administering its functions under this Agreement. The Secretary of Agriculture may transfer to the Administration or any such agency, out of funds available for administrative expenses under the Agricultural Adjustment Act, such monies as may be necessary to pay administrative expenses incurred by the Administration or such agencies in carrying out the provisions of this Agreement.

Section 4. The contracting distillers agree, through the agency of the Code Authority established pursuant to the Code of Fair Competition for the Distilled Spirits Industry, to cooperate with the Administration and the Secretary in carrying out this Agreement, and to this end the Code Authority shall have the following powers and duties: (a) to act as an agency through which the contracting distillers may make recommendations to effectuate the declared policy of the Act; and (b) to serve as one of the agencies through which reports of apparent violations of this Agreement may be received and reported to the Administration. In addition, the Code Authority shall have such powers and duties with respect to this Agreement as may be prescribed by regulations of the Administration. None of the foregoing powers of the Code Authority shall be deemed to limit the powers of the Administration.

Section 5. The Administration shall report to the Attorney General and the Secretary, for appropriate action by them, the facts found by the Administration with respect to any violation of this Agreement.

ARTICLE VIII

Licensing

Section 1. The contracting distillers hereby apply for and consent to licensing by the Secretary, subject to the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE IX

Effective Time

Section 1. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated as follows:

(a) The Secretary may at any time terminate this Agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory thereto, by giving at least one day's notice, by depositing the same in the mail and addressed to such party at his last known address.

(c) The Secretary shall terminate this Agreement upon the request of 75 per cent of the contracting distillers, such percentage to be measured by the volume of distilled spirits produced, by giving notice in the same manner as provided in paragraph (a) above.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

ARTICLE X

Immunities

Section 1. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

Section 2. This Agreement shall not be held to relieve any contracting distiller from compliance with any law relating to intoxicating beverages or any applicable marketing agreement, license, or code of fair competition entered into or issued pursuant to Act of Congress.

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ARTICLE XI

Counterparts

Section 1. This Agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE XII

Additional Parties.

Section 1. After this Agreement first takes effect any person not a party thereto who is engaged in the production of distilled spirits, may become a party to this Agreement, if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such new contracting party.

ARTICLE XIII

Agents.

Section 1. The Secretary or the Administration may by designation in writing, name any person, including any officer or employee of the Government, to act as his or their agent in connection with carrying out their respective functions under any of the provisions of this Agreement.

ARTICLE XIV

Signatures of Parties.

In witness whereof the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

WHEREAS, it is provided by Section 8 of the Act as follows:

In order to effectuate the declared policy, the Secretary of Agriculture shall have power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States and any such agreement shall be deemed to be lawful; Provided, That no such agreement shall remain in force after the termination of this Act;

And --

WHEREAS, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder: and

WHEREAS, the Secretary finds (1) that the contracting distillers are engaged in the handling of distilled spirits in the current of interstate and foreign commerce; and (2) that the conditions existing in the marketing of commodities used for distilled spirits in intrastate commerce burden the marketing in interstate and foreign commerce of domestic agricultural commodities available for the manufacture of distilled spirits; and (3) that the marketing of such commodities and spirits in intrastate commerce is inextricably intermingled with their marketing and distribution in interstate and foreign commerce; and

WHEREAS, it appears, after due consideration, that this Agreement will tend to effectuate the policy of Congress declared in Section 2 of the Act, as hereinbefore in this Agreement set forth:

NOW, THEREFORE, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the City of Washington, D. C., on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ Eastern Standard Time, _____.

Secretary of Agriculture.

(SEAL)

1.94
1346D

CODE OF FAIR COMPETITION FOR THE DISTILLED SPIRITS INDUSTRY

(EXCLUSIVE OF PROVISIONS RELATING TO

HOURS OF LABOR, RATES OF PAY, AND OTHER CONDITIONS OF EMPLOYMENT)

ARTICLE I

Purposes.

WHEREAS, it is the declared policy of Congress as set forth in Section 1 of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor, and management under competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restrictions of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources,

And ---

WHEREAS, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And ---

WHEREAS, it is in the best interests of the public that all industries engaged in the production or distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries, --

NOW, THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the Distilled Spirits Industry (exclusive of provisions relating to hours of labor, rates of pay, and other conditions of employment), and upon approval by the President shall constitute standards of fair competition for such industry and shall be binding upon every member of such industry in the United States; and neither the approval of this Code nor any action taken thereunder by the Federal Alcohol Control Administration, the Code Authority, or by any member of the distilled spirits industry shall be construed as giving any member of such industry a vested right to continue to participate in the production or distribution of distilled spirits in the United States.

ARTICLE II

Definitions.

Section 1. As used in this Code,--

- (a) The term "President" means the President of the United States.
- (b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.
- (c) The term "persons" means individual, partnership, corporation, association, and any other business unit.
- (d) The terms "distilled spirits industry" and "industry" means (a) the production of distilled spirits, or (b) the brewing or making of mash, wort, or wash fit for the production of distilled spirits, or (c) the separation of alcoholic spirits by a process of evaporation or otherwise from any fermented or other substance, or (d) the bottling, warehousing or other handling or distribution of distilled spirits, or the sale or other disposition thereof, by a member of the industry or an affiliate or subsidiary thereof; but such terms do not include blending or rectification of distilled spirits.
- (e) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof.
- (f) The term "beverage use" means beverage, medicinal, culinary or any other use except for industrial purposes.
- (g) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.
- (h) The term "employer" means any person by whom any such employee is compensated or employed.
- (i) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.
- (j) The term "Administration" means the Federal Alcohol Control Administration, established pursuant to this Code.
- (k) The term "Director" means the director of the Federal Alcohol Control Administration.
- (l) The term "Code Authority" means the industry authority established pursuant to this Code.
- (m) The term "United States" includes the several States and Territories, the District of Columbia and Puerto Rico.

(n) The term "State" includes Territory and the District of Columbia.

(o) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(p) The term "subsidiary" means any person, of or over whom, a member of the industry has either, directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(q) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner, or a subsidiary thereof.

(r) The term "trade buyer" means any buyer of distilled spirits except an ultimate consumer.

ARTICLE III

Mandatory Labor Provisions.

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment, to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE IV

Permits.

Section 1. No person shall engage in the distilled spirits industry except pursuant to a permit issued by the Director. Each member of the industry entitled to the use of plant capacity under Article VIII of this Code, shall be entitled to have such a permit issued to him upon application therefor, and such permit shall remain in effect during the duration of this Code, unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Article III) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business; or any right to engage in the manufacture or distribution of any class of distilled spirits after the termination of the permit.

Section 2. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of any term or condition thereof.

Section 3. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE V

Unfair Methods of Competition.

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any distilled spirits. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any distilled spirits that are misbranded. Distilled spirits shall be deemed to be misbranded -

(a) Food and Drugs Act Requirements. If they are misbranded within the meaning of the Food and Drugs Act.

(b) Standards of Fill. If their container is so made, formed, or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of Identity. If they purport to be or are represented as distilled spirits for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) Standards of Quality. If they purport to be or are represented as distilled spirits for which standards of quality have been prescribed by regulations of the Administration, and (1) fail to state on the label, if so required by the regulations, their standard of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(e) Label Requirements. If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulation prescribe.

Regulations for the purposes of this subsection shall be prescribed by the Administration, but only after due notice and opportunity for hearing to the members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase distilled spirits of a particular brand or from a particular person, or (b) to refrain from purchasing from or dealing with particular persons.

Section 4. Shipment or Delivery on Consignment. To enter into any agreement, except for export, for the shipment or delivery of distilled spirits on consignment.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay a trade buyer for a special advertising or distributing service, (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Guarantees Against Decline. To make or give to any purchaser of distilled spirits any guarantee or allowance in any form against or as a result of decline in the seller's price thereof; except pursuant to a contract made prior to the effective date of this Code.

Section 7. Prizes and Premiums. To offer any prize, premium, gift, or other similar inducement to either a trade or a consumer buyer.

Section 8. Control of Retail Outlets. To hold any interest in any license for the sale of distilled spirits at retail for consumption on the premises; or directly or indirectly, to participate or engage in the sale of distilled spirits at retail for consumption on the premises; or to control, employ, manage, or financially assist in any manner, any person engaging in the retail sale of distilled spirits; or to hold any interest in any premises on which distilled spirits are sold at retail for consumption on the premises, unless the holding of such interest is permitted under regulations of the Administration or a statement thereof has been filed with the Administration and has not been disapproved by it; provided that this section shall not be held to prohibit the granting of the credits ordinarily extended by the industry with respect to the sale of distilled spirits.

Section 9. Sales to Unauthorized Vendors. To sell or otherwise dispose of distilled spirits to any person not authorized by license in full force and effect, to sell, manufacture or distribute distilled spirits, if such a license is required of such person by State law; or to sell or otherwise dispose of distilled spirits to any member of an industry covered by any code under the Act pertaining to alcoholic beverages, if such member is engaged in business without a permit in full force and effect under such code and such a permit is required by the Code.

Section 10. Violations of State Law. To transport or import distilled spirits into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such State.

Section 11. Exclusive Outlets. To exact or require, by contract, understanding or otherwise, that any trade buyer who is engaged in the sale of distilled spirits at retail for consumption on the premises, handle or sell only the products of a particular member of the industry.

ARTICLE VI

Bottling.

Section 1. Members of the industry shall sell or dispose of distilled spirits in bottles only, except in case of sales to rectifiers or blenders, or to dispensaries or other agencies operated and maintained by any State or political subdivision thereof, or for export, or for shipments in bond. Nothing in this section shall restrict the sale or other disposition of warehouse receipts covering distilled spirits in bond, provided such receipts require the bottling of the distilled spirits prior to removal from the warehouse.

ARTICLE VII

Prices and Terms of Sale.

Section 1. Each member of the industry shall keep posted with the Code Authority, in accordance with regulations prescribed by it and approved by the Administration, and upon request make available to trade and consumer buyers a price list which shall set forth (a) all the brands and types of distilled spirits offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale of such distilled spirits.

Section 2. The Code Authority shall file with the Administration a copy of each price list so posted. The Code Authority shall, upon request, make available such price lists to trade and consumer buyers.

Section 3. No sale or other disposition of distilled spirits shall be made by any member of the industry except in accordance with its prices and terms so posted and in effect.

Section 4. No member of the industry shall post or keep posted any price or term which (a) will constitute destructive price cutting, or (b) be so high as to encourage, directly or indirectly, the sale of distilled spirits in violation of law, or (c) be oppressive to the consumer. A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

Section 5. If, after investigation, the Code Authority finds that any price or term posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration declare such price or term ineffective.

Section 6. If the Administration is of the opinion that the prices or terms posted for any class or type of distilled spirits are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not within 10 days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

Section 7. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms of sale, as disclosed in the posted price list, is prohibited.

Section 8. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transactions represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE VIII

Control of Plant Capacity & Production.

Section 1. No person shall utilize for the production of distilled spirits plant capacity in excess of that held by him or under actual process of construction or in the process of equipment by him on the date of the repeal of the Eighteenth Amendment or on the effective date of this Code, whenever is the earlier; except that any person may utilize for the production of distilled spirits plant capacity acquired or constructed by him in addition to the foregoing, if in the judgment of the Administration, after due notice and opportunity for hearing, such additional utilization of plant capacity is necessary to meet the consumptive demands for distilled spirits or any class or type thereof. Nothing in this section shall be construed to prevent any person from constructing new plant capacity to replace abandoned or destroyed plant capacity which could be utilized under the provisions of this section.

Section 2. If the Administration finds, after due notice and opportunity for hearing, that the present or potential production of distilled spirits is larger than the probable demand therefor, so as to tend to produce excessive accumulations of stocks, excessive competition for sales, or other detrimental marketing conditions in the industry, and thereby tends to prevent the effectuation of the declared policy of the Act or of the purposes of this Code, the Administration, in consultation with the Code Authority, may, notwithstanding the provisions of Section 1, limit the production and distribution of distilled spirits and allocate the production thereof among the members of the industry, and may provide for the orderly distribution of accumulated stocks. If the Administration finds, after due notice and opportunity for hearing, that the current supply of any class or type of distilled spirits, is or is likely to be inadequate to meet the consumptive demands, it may authorize and, in consultation with the Code Authority, allocate additional production.

ARTICLE IX

Reports.

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other condi-

tions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (a) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (b) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code are being effected, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require that his subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE X

Code Authority.

Section 1. There shall be a Code Authority selected by the members of the industry pursuant to a plan submitted by members of the industry, and approved by the Administration. The members of the Code Authority shall be subject to the approval of the Administration and shall be subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration; and to foster and promote the observance of this Code by the members of the industry.

(b) To prescribe rules for the performance of its function subject to the approval of the Administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration from time to time may request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the administration of this Code.

(f) To receive and investigate charges of apparent violation of this Code and to report to the Administration its findings of fact on such charges.

This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.

Section 2. If the members of the industry fail to submit a plan under Section 1 within five days after the effective date of this Code or the plan submitted is not approved by the Administration, then the Administration may establish and provide for the selection of the members of the Code Authority according to a plan prescribed by the Administration.

ARTICLE XI

Federal Alcohol Control Administration.

Section 1. There is hereby established a Federal Alcohol Control Administration, to be composed of five officers of the Executive Branch of the Government, to be designated by the President from time to time. The President shall designate from among the members of the Administration a chairman, who shall also be the director for the Administration. The Administration shall fix the compensation and define the powers and duties of the director. The director shall appoint and fix the compensation of such officers and employees of the Administration, and shall make such expenditures as may be necessary to carry out the functions of the Administration. Expenditures of the Administration, unless otherwise provided for, shall be paid from such funds as the President may allocate from monies available for carrying out the purposes of Title I of the National Industrial Recovery Act.

Section 2. The Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 3. The Administration may utilize the services of the Bureau of Internal Revenue, the Agricultural Adjustment Administration, the Food and Drugs Administration, and other agencies of the Government in performing its functions under this Code. The President may allocate to any agency of the government whose services are so utilized, such monies available for carrying out the purposes of Title I of the National Industrial Recovery Act as may be necessary.

Section 4. The Administration may make such investigations and studies as it deems necessary to aid it in performing its functions.

ARTICLE XII

Duration of Immunities.

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XIII

Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XIV

Modification.

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation, issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval, of the Code or any conditions imposed by him upon his approval thereof.

ARTICLE XV

Effective Time.

Section 1. This Code shall become effective on the day following its approval by the President.

1346D

CODE OF FAIR COMPETITION FOR THE
DISTILLED SPIRITS RECTIFYING IN-
DUSTRY

(Exclusive of Provisions Relating
to Hours of Labor, Rates of Pay,
and other Conditions of Employment.)

ARTICLE I

Purposes.

WHEREAS, it is the declared policy of Congress as set forth in
Section 1 of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and
foreign commerce which tend to diminish the amount thereof;
and to provide for the general welfare by promoting the or-
ganization of industry for the purpose of cooperative action
among trade groups; to induce and maintain united action of
labor and management under adequate governmental sanctions
and supervision, to eliminate unfair competitive practices,
to promote the fullest possible utilization of the present
productive capacity of industries, to avoid undue restric-
tions of production (except as may be temporarily required),
to increase the consumption of industrial and agricultural
products by increasing purchasing power, to reduce and re-
lieve unemployment, to improve standards of labor, and
otherwise to rehabilitate industry and to conserve natural
resources -

And --

WHEREAS, Congress has not had opportunity to legislate on
liquor control following the repeal of the Eighteenth Amendment,
and

WHEREAS, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or
possession of the United States for delivery or use therein of
intoxicating liquors, in violation of the laws thereof, is
hereby prohibited.

And --

WHEREAS, it is in the best interests of the public that all in-
dustries engaged in the production or distribution of alcoholic beverages
shall limit their activities to their reasonable and immediate requirements

until such time as Congress may consider appropriate legislation relating to such industries --

NOW THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the distilled spirits rectifying industry (exclusive of provisions relating to hours of labor, rates of pay and other conditions of employment), and upon approval by the President shall constitute standards of fair competition for such industry and shall be binding upon every member of such industry in the United States; and neither the approval of this Code nor any action taken thereunder by the Federal Alcohol Control Administration, the Code Authority, or by any member of the distilled spirits rectifying industry shall be construed as giving any member of such industry a vested right to continue to participate in the production or distribution of rectified spirits in the United States.

ARTICLE II

Definitions.

Section 1. As used in this Code, --

- (a) The term "President" means the President of the United States.
- (b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.
- (c) The term "person" means individual, partnership, corporation, association and any other business unit.
- (d) The terms "distilled spirits rectifying industry" and "industry" mean the purifying of distilled spirits, or the mixing, blending, or flavoring of distilled spirits, or the bottling, warehousing or other handling or distribution of rectified distilled spirits, or the sale or other disposition thereof, by a member of the industry or an affiliate or subsidiary thereof.
- (e) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof.
- (f) The term "beverage use" means beverage, medicinal, culinary, or any other use except use for industrial purposes.
- (g) The term "rectified product" means any distilled spirits which are a product of the industry.

(h) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(i) The term "employer" means any person by whom any such employee is compensated or employed.

(j) The term "member of the industry" means any person engaged in the distilled spirits rectifying industry as an employer or on his own behalf.

(k) The term "Administration" means the Federal Alcohol Control Administration.

(l) The term "Director" means the director of the Federal Alcohol Control Administration.

(m) The term "Code Authority" means the industry authority established pursuant to this Code.

(n) The term "United States" includes the several States and Territories, the District of Columbia and Puerto Rico.

(o) The term "State" includes Territory and the District of Columbia.

(p) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(q) The term "subsidiary" means any person, of or over whom, a member of the industry has either, directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(r) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner, or a subsidiary thereof.

(s) The term "trade buyer" means any buyer of rectified distilled spirits, except an ultimate consumer.

ARTICLE III

Mandatory Labor Provisions

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE IV

Permits

Section 1. No person shall engage in the distilled spirits rectifying industry except pursuant to a permit issued by the Administration. The Administration shall grant a permit to any person upon application who (a) has complied with the State and Federal laws pertaining to distilled spirits rectification, and (b) who has fulfilled the requirements of Section 2 of this Article and (c) who has presented evidence to the Administration regarding his previous experience, financial standing, and trade connections sufficient to prove to the satisfaction of the Administration that such applicant is in fact a potential legal producer of a rectified product which can be absorbed by the probable market demand for such product. Such permit shall remain in effect during the duration of this Code, unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Article III) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business; or any right to engage in the manufacture or distribution of any rectified product after the termination of the permit.

Section 2. The Administration shall, as a condition precedent to the issuance of a permit, require from the applicant a forfeiture bond in the sum of \$25,000 or less as the Administration may in its discretion deem necessary. This bond shall be conditioned upon compliance with the provisions of this Code (other than the provisions of Article III) and regulations thereunder, in such form and with such surety, terms and provisions as the Administration may prescribe.

Section 3. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of any term or condition thereof.

Section 4. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE V

Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any rectified product. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any rectified products that are misbranded. Rectified products shall be deemed to be misbranded--

(a) Food and Drugs Requirements. If they are misbranded within the meaning of the Food and Drugs Act.

(b) Standards of Fill. If their container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of Identity. If they purport to be or are represented as products for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) Standards of Quality. If they purport to be or are represented as products for which standards of quality have been prescribed by regulations of the Administration, and (1) fail to state on the label, if so required by the regulations, their standard of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(e) Label Requirements. If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulation prescribe.

Regulations for the purpose of this section shall be prescribed by the Administration, but only after due notice and opportunity for hearing to the members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase rectified products of a particular brand or from a particular person, or (b) to refrain from purchasing from or dealing with particular persons.

Section 4. Shipment or Delivery on Consignment. To enter into any agreement except for export, for the shipment or delivery of distilled spirits on consignment.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay a trade buyer for a special advertising or distributing service, (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Guarantees Against Decline. To make or give to any purchaser of a rectified product any guarantee or allowance in any form against or as a result of decline in the seller's price thereof; except pursuant to a contract made prior to the effective date of this Code.

Section 7. Prizes and Premiums. To offer any prize, premium, gift or other similar inducement to either a trade or consumer buyer.

Section 8. Control of Retail Outlets. To hold any interest in any license for the sale of rectified products or distilled spirits at retail for consumption on the premises; or directly or indirectly, to participate or engage in the sale of rectified products or distilled spirits at retail for consumption on the premises; or to control, employ, manage, or financially assist in any manner, any person engaged in the retail sale of rectified products or distilled spirits for consumption on the premises; or to hold any interest in any premises on which rectified products or distilled spirits are sold at retail for consumption on the premises, unless the holding of such interest is permitted under regulations of the Administration or a statement thereof has been filed with the Administration and has not been disapproved by it; provided that this section shall not be held to prohibit the granting of the credits ordinarily extended by the industry with respect to the sale of rectified products.

Section 9. Sales to Unauthorized Vendors. To sell or otherwise dispose of rectified products or distilled spirits to any person not authorized by license in full force and effect to sell, manufacture or distribute rectified products or distilled spirits, if such a license is required of such person by State law, or to sell or otherwise dispose of rectified products or distilled spirits to any member of an industry covered by any code under the Act pertaining to alcoholic beverages, if such member is engaged in the business without a permit in full force and effect under such code and such a permit is required by the Code.

Section 10. Violations of State Law. To transport or import rectified products or distilled spirits into any State or political subdivision thereof for delivery, sale or use therein in violation of the law of such State.

Section 11. To exact or require, by contract, understanding, or otherwise that any trade buyer who is engaged in the sale of rectified products at retail for consumption on the premises, handle or sell only the products of a particular member of the industry.

ARTICLE VI

Source of Supply

Section 1. No member of the industry shall acquire distilled spirits or any other alcoholic beverage from any source other than a person who holds in full force and effect a permit issued under the Alcoholic Beverages Code of Fair Competition applicable to such person, if such code requires such a permit.

ARTICLE VII

Bottling

Section 1. Members of the industry shall sell or dispose of products in bottles only, except in case of sales to rectifiers or blenders or to dispensaries or other agencies operated and maintained by any State or political subdivision thereof, or for export, or for shipments in bond. Nothing in this section shall restrict the sale or other disposition of warehouse receipts covering distilled spirits in bond, provided such receipts require the bottling of the distilled spirits prior to or after tax payment and prior to shipment by the warehouseman.

ARTICLE VIII

Prices and Terms of Sale

Section 1. Each member of the industry shall keep posted with the Code Authority, in accordance with regulations prescribed by it and approved by the Administration, and upon request make available to trade and consumer buyers a price list which shall set forth (a) all the brands and types of rectified products offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale of such rectified products.

Section 2. The Code Authority shall file with the Administration a copy of each price list so posted. The Code Authority shall, upon request, make available such price lists to trade and consumer buyers.

Section 3. No sale or other disposition of distilled spirits shall be made by any member of the industry except in accordance with its prices and terms so posted and in effect.

Section 4. No member of the industry shall post or keep posted any price or term which (a) will constitute destructive price cutting, or (b) be so

high as to encourage, directly or indirectly, the sale of distilled spirits in violation of law, or (c) be oppressive to the consumer. A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

Section 5. If, after investigation, the Code Authority finds that any price or term posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration declare such price or term ineffective.

Section 6. If the Administration is of the opinion that the prices or terms posted for any class or type of distilled spirits are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not within 10 days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

Section 7. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms of sale, as disclosed in the posted price list, is prohibited.

Section 8. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE IX

Control of Plant Capacity and Production

Section 1. If the Administration finds, after due notice and opportunity for hearing, that the present or potential production of rectified products is larger than the probable demand therefor, so as to tend to produce an excessive accumulation of stocks, excessive competition for sales, or other detrimental marketing conditions in the industry, and thereby tends to prevent the effectuation of the declared policy of the Act or the purposes of this Code, the Administration, in consultation with the Code Authority, may limit the production and distribution of rectified products and allocate the production thereof among the members of the industry, and may provide for the orderly distribution of accumulated stocks. If the Administration finds after due notice and opportunity for hearing, that the current supply of any class or type of rectified products, is or is likely to be inadequate to meet the consumptive demands, it may authorize and, in consultation with the Code Authority, allocate additional production.

ARTICLE X

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (a) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (b) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require that his subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE XI

Code Authority

Section 1. There shall be a Code Authority selected by the members of the industry pursuant to a plan submitted by members of the industry and approved by the Administration. The members of the Code Authority shall be subject to the approval of the Administration and subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration; and to foster and promote the observance of this Code by members of the industry.

(b) To prescribe rules for the performance of its functions subject to the approval of the Administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration from time to time may request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the administration of this Code.

(f) To receive and investigate charges of apparent violation of this Code and to report to the Administration its findings of fact on such charges. This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.

Section 2. If the members of the industry fail to submit a plan under Section 1 within 30 days after the effective date of this Code, or the plan submitted is not approved by the Administration, then the Administration may establish and provide for the selection of the members of the Code Authority according to a plan prescribed by the Administration.

ARTICLE XII

Federal Alcohol Control Administration

Section 1. The Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code, which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 2. The Administration may investigate any apparent violation of the provisions of this Code and may take such action in the premises as it deems necessary.

ARTICLE XIII

Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XIV

Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XV

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation, issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XVI

Effective Date

Section 1. This Code shall be effective the day following its approval by the President of the United States.

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UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

SPECIAL PERMIT ISSUED PURSUANT TO THE MARKETING AGREEMENT
FOR THE DISTILLED SPIRITS INDUSTRY

Whereas Article III, Section 1, of the license for the Distilled Spirits Industry, issued December 13, 1933, as amended on December 29, 1933, provides that "Except as provided by special permit issued pursuant to Article V of the Marketing Agreement for the Distilled Spirits Industry, (or issued without regard to the terms of said Marketing Agreement if the Secretary determines that an emergency condition exists which so requires,) each distiller shall manufacture distilled spirits (including any mash, wort, or wash used therefor), after the effective date of this License, exclusively from cereal grains or their products; and market for beverage use only such distilled spirits now held or hereafter acquired by him as are manufactured from cereal grains or their products".

And, Whereas, I, the Secretary of Agriculture, in accordance with the provisions of Article V, Section 1 of the Marketing Agreement for the Distilled Spirits Industry, have found from available data of the Government and the Code Authority of the Distilled Spirits Industry, that there does not exist an adequate supply of distilled spirits manufactured from cereal grains or products thereof, I hereby grant permission to all distillers to manufacture and market, for the manufacture of gin and the rectification of distilled spirits, ethyl alcohol, produced from commodities other than cereal grains and their products without limitation as to amount during the period January 15 to March 1, 1934, provided such ethyl alcohol must be sold and Federal tax paid before March 1st, 1934.

This permit is issued subject to the following conditions:

1. That the permittees will sell ethyl alcohol manufactured pursuant to this permit only to rectifiers and blenders holding permits issued by the Federal Alcohol Control Administration.
2. That the permittee will pay an amount, per unit of the commodity used under this permit, equal to the parity payment, if any, in effect pursuant to said Marketing Agreement during the period of this permit per equivalent unit of cereal grain or product thereof, which might normally be used or be available for use for the manufacture of ethyl alcohol by the permittee, as defined by regulations to be issued by me.
3. That the permittee will pay a further amount, per unit of the commodity used under this permit, equal to the amount of any processing or other tax under the Agricultural Adjustment Act, if any,

in effect during the period of this permit per equivalent unit of cereal grain or product thereof, as defined by regulations to be issued by me.

4. That this permit shall be applicable only to those distillers holding in full effect permits issued by the Federal Alcohol Control Administration to engage in distilled spirits industry pursuant to the provisions of the Code of Fair Competition for that industry.

5. That if, within the period January 15 to March 1, 1934, it is found that there is an adequate supply of distilled spirits manufactured from cereal grains or products thereof or that operations under this permit are materially decreasing the consumption of grain in the manufacture of ethyl alcohol for beverage purposes, this permit shall be subject to cancellation or modification by me, provided, that rights under this permit shall, notwithstanding such cancellation or modification, continue to apply to the then existing contracts made for the delivery of ethyl alcohol manufactured from commodities other than cereal grains and their products if delivery is made under such contracts within ten days after such termination or prior to the expiration of this permit, whichever is earlier.

Operations in accordance with the provisions of this permit shall not be construed to prejudice existing rights, if any, of any distiller who is not a signatory of said Marketing Agreement.

Secretary of Agriculture

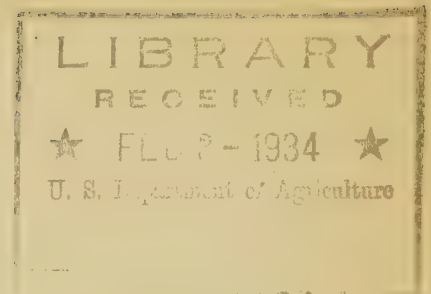
Date: January 10, 1934.

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MARKETING AGREEMENT FOR THE
DISTILLED SPIRITS INDUSTRY

ARTICLE I

Purposes



The parties to this agreement are the contracting distillers and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress as set forth in Section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended, -

- (a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909 - July 1914, and in the case of tobacco, the base period being the post-war period, August 1919 - July 1929;
- (b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and
- (c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909 - July 1914; - and -

WHEREAS, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of correcting conditions now existing, or likely to exist after the repeal of the Eighteenth Amendment, in the marketing of domestic agricultural commodities ordinarily used in the distilled spirits industry, and of effectuating the declared policy of the Act, desire to enter into a marketing agreement under the provisions of Section 8 (2) of the Act;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE II

Definitions.

Section 1. As used in this Agreement, -

(a) The term "Secretary" means the Secretary of Agriculture of the United States.

(b) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other alcoholic spirits for beverage use, produced by the separation of alcoholic spirits by a process of evaporation or otherwise from any fermented or other substance.

(e) The term "beverage use" means beverage, medicinal, culinary, or any other use except use for industrial purposes.

(f) The term "contracting distiller" means any person, a party signatory to this Agreement according to the terms thereof, who is engaged in the production of distilled spirits in the United States.

(g) The term "United States" includes the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and Island of Guam.

(h) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, correspondence or other written data pertaining to the business of the person in question.

(i) The term "subsidiary" means any person, of or over whom, the contracting distiller has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(j) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting distiller, whether by stock ownership or in any other manner.

(k) The term "Administration" means the Federal Alcohol Control Administration.

(l) The term "Code Authority" means the Code Authority established pursuant to the provisions of the Code of Fair Competition for the Distilled Spirits Industry.

ARTICLE III

Use of Cereal Grains

Section 1. Except as provided by special permit issued pursuant to Article V, each contracting distiller agrees to manufacture distilled spirits (including any mash, wort or wash used therefor) after the effective date of the Agreement, exclusively from cereal grains or their products; and to market for beverage use only such distilled spirits now held or hereafter acquired by him as are manufactured from cereal grains or their products.

Section 2. This Article shall not apply to rum or brandy or brandy spirits for wine fortification.

ARTICLE IV

Payment of Parity Price

Section 1. Each contracting distiller agrees to pay for all cereal grain or products thereof, used by him after the effective date of this Agreement, in the manufacture of distilled spirits, a total amount per unit not less than the fair exchange value therefor. The fair exchange value shall be promulgated hereunder by the Secretary from time to time. The fair exchange value for cereal grains shall be as defined in the Act; and the fair exchange value for products thereof shall be determined in accordance with conversion factors to be established by the Secretary.

Section 2. For the purposes of this Agreement the Secretary shall promulgate hereunder from time to time a current average farm price for cereal grains and their products. The current average farm price for cereal grains shall be determined as provided in the Act; and a current average farm price for their products shall be determined in accordance with conversion factors to be established by the Secretary.

Section 3. Whenever the sum of (1) the current average farm price for any cereal grain or product thereof used by contracting distillers, plus (2) the processing or other tax under the Act, if any, paid with respect thereto or with respect to a commodity from which processed or derived directly or indirectly, is less than the fair exchange value for such grain or product, the contracting distillers shall pay the amount of such difference (hereinafter known as the parity payment) into the Treasury of the United States or such other depository as may be designated by regulations of the Secretary.

Section 4. Payments under this section shall be made at such times and in such manner, and shall be computed in accordance with such requirements, as may be prescribed by regulations of the Secretary. Such amounts shall be utilized for rental or benefit payments or other disbursements under the Act made with respect to grain.

Section 5. This Article shall not apply to barley malt.

ARTICLE V

Special Permits

Section 1. Upon application to the Secretary, made in accordance with such regulations as the Secretary shall prescribe, the Secretary is authorized, from time to time, to issue to contracting distillers special permits for the manufacture of designated amounts of ethyl alcohol to be used for the manufacture of gin or the rectification of distilled spirits and to be manufactured from commodities other than cereal grain or products thereof. The aggregate amount of ethyl alcohol so authorized for manufacture during any period shall (if applications in sufficient amount are made) be not less than ten per centum of the amount of ethyl alcohol required for manufacture of gin or the rectification of distilled spirits during such period. The amount so required shall be estimated by the Secretary from available data of the Government or the Code Authority. Notwithstanding the foregoing limitation the Secretary may issue additional special permits to contracting distillers for the manufacture during such period of distilled spirits from commodities other than cereal grains and their products, if during such period there will not, in the judgment of the Secretary, be available an adequate supply of distilled spirits manufactured from cereal grains or products thereof. The Secretary shall specify in any such permit the commodity, source, and quantity permitted to be so used, the period during which the commodity may be so purchased and used, and such other terms and conditions as may be necessary. Such additional special permits shall not be issued whenever, in the judgment of the Secretary, the issuance of such permits will prevent or tend to prevent the effectuation of the declared policy of the Act.

Section 2. It shall be a condition of any such permit that the permittee shall pay an amount, per unit of the commodity used under permit, equal to the parity payment, if any, then in effect per equivalent unit of the cereal grain or product thereof, if any, normally used, or available for use by the permittee. In addition, if no processing or other tax under the Act is in effect with respect to the commodity used under permit, the amount to be so paid shall be increased by the amount of the processing or other tax under the Act, if any, then in effect per equivalent unit of such cereal grain or product thereof.

Section 3. Payments under this Article shall be paid into the Treasury of the United States or such other depository as the Secretary may by regulation provide; and shall be made at such times and in such manner; and shall be computed in accordance with such requirements, as may be prescribed by regulations of the Secretary. Such payments shall be utilized in the same manner as payments under Article IV.

Section 4. The Secretary shall by regulation establish such conversion factors as may be necessary for the purposes of this Article.

ARTICLE VI

Reports

Section 1. The contracting distillers shall severally, from time to time upon the request of the Administration or the Secretary, furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purposes of (1) assisting the Administration or the Secretary in the furtherance of their powers and duties with respect to this Agreement, or (2) enabling the Administration or the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath.

Section 2. The contracting distillers also severally agree that, for the same purposes, or to enable the Administration or the Secretary to verify the information furnished on said forms of report, all their books and records, and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Administration or the Secretary.

Section 3. The contracting distillers shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall require their respective affiliates and subsidiaries to keep such books and records.

Section 4. All information furnished the Administration or the Secretary pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration or the Secretary respectively.

ARTICLE VII

Administration

Section 1. The provisions of this Agreement, except as otherwise provided, shall be administered by the Federal Alcohol Control Administration.

Section 2. The Administration and the Secretary shall each prescribe such regulations as may be reasonably necessary to carry out their respective functions under the provisions of this Agreement, and may make such interpretations of such provisions and regulations as they respectively deem necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Agreement.

Section 3. The Secretary of Agriculture may transfer to the Administration or any agency of the Government whose services the Administration may utilize in administering its functions under this Agreement, out of funds available for administrative expenses under the Agricultural Adjustment Act, such monies as may be necessary to pay administrative expenses incurred by the Administration or any such agencies in carrying out the provisions of this Agreement.

Section 4. The contracting distillers agree, through the agency of the Code Authority established pursuant to the Code of Fair Competition for the Distilled Spirits Industry, to cooperate with the Administration and the Secretary in carrying out this Agreement, and to this end the Code Authority shall have the following powers and duties: (a) to act as an agency through which the contracting distillers may make recommendations to effectuate the declared policy of the Act; and (b) to serve as one of the agencies through which reports of apparent violations of this Agreement may be received and reported to the Administration. In addition, the Code Authority shall have such powers and duties with respect to this Agreement as may be prescribed by regulations of the Administration. None of the foregoing powers of the Code Authority shall be deemed to limit the powers of the Administration.

Section 5. The Administration shall report to the Attorney General and the Secretary, for appropriate action by them, the facts found by the Administration with respect to any violation of this Agreement.

ARTICLE VIII

Licensing

Section 1. The contracting distillers hereby apply for and consent to licensing by the Secretary, subject to the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE IX

Effective Time

Section 1. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated as follows:

(a) The Secretary may at any time terminate this Agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory thereto, by giving at least one day's notice, by depositing the same in the mail and addressed to such party at his last known address.

(c) The Secretary shall terminate this Agreement upon the request of 75 percent of the contracting distillers, such percentage to be measured by the volume of distilled spirits produced, by giving notice in the same manner as provided in paragraph (a) above.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

ARTICLE X

I

Immunities

Section 1. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

Section 2. This Agreement shall not be held to relieve any contracting distiller from compliance with any law relating to intoxicating beverages or any applicable marketing agreement, license, or code of fair competition entered into or issued pursuant to Act of Congress.

ARTICLE XI

Counterparts

Section 1. This Agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE XII

Additional Parties

Section 1. After this Agreement first takes effect any person not a party thereto who is engaged in the production of distilled spirits, may become a party to this Agreement, if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such new contracting party.

ARTICLE XIII

Agents

Section 1. The Secretary or the Administration may by designation in writing, name any person, including any officer or employee of the Government, to act as his or their agent in connection with carrying out their respective functions under any of the provisions of this Agreement.

ARTICLE XIV

Signatures of Parties

IN WITNESS WHEREOF the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

WHEREAS, it is provided by Section 8 of the Act as follows:

In order to effectuate the declared policy, the Secretary of Agriculture shall have power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States and any such agreement shall be deemed to be lawful; Provided, That no such agreement shall remain in force after the termination of this Act;

And --

WHEREAS, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder: and

WHEREAS, the Secretary finds (1) that the contracting distillers are engaged in the handling of distilled spirits in the current of interstate and foreign commerce; and (2) that the conditions existing in the marketing in intrastate commerce of commodities used for the manufacture of distilled spirits burden the marketing in interstate and foreign commerce of domestic agricultural commodities available for the manufacture of distilled spirits; and (3) that the marketing of such commodities and spirits in intrastate commerce is inextricably intermingled with their marketing and distribution in interstate and foreign commerce; and

WHEREAS, it appears, after due consideration, that this Agreement will tend to effectuate the policy of Congress declared in section 2 of the Act, as hereinbefore in this Agreement set forth:

NOW, THEREFORE, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the City of Washington, D. C., on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ Eastern Standard Time, _____.

(SEAL)

Secretary of Agriculture.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION.

PROPOSED CODE OF
FAIR COMPETITION FOR THE DISTILLED SPIRITS
RECTIFYING INDUSTRY. (EXCLUSIVE OF PROVISIONS
RELATING TO HOURS OF LABOR, RATES OF PAY AND
OTHER CONDITIONS OF EMPLOYMENT)

This proposed Code of Fair Competition for the Distilled Spirits Rectifying Industry which has been prepared by and incorporates the policies of the President's Special Committee on Control of Alcohol and Alcoholic Beverages, is presented by the Secretary of Agriculture upon his own motion pursuant to Section 3 (d) of the National Industrial Recovery Act and executive Orders under said Act. The proposed Code has been set for hearing on Tuesday, December 5, 1933. The Document is not to be regarded as an expression of the final views of the Special Committee.

CODE OF FAIR COMPETITION FOR THE
DISTILLED SPIRITS RECTIFYING IN-
DUSTRY

(Exclusive of Provisions Relating
to Hours of Labor, Rates of Pay,
and other Conditions of Employ-
ment.)

ARTICLE I

Purposes.

WHEREAS, it is the declared policy of Congress as set forth in
Section I of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and
foreign commerce which tend to diminish the amount thereof;
and to provide for the general welfare by promoting the
organization of industry for the purpose of cooperative
action among trade groups; to induce and maintain united
action of labor and management under adequate governmental
sanctions and supervision, to eliminate unfair competitive
practices, to promote the fullest possible utilization of
the present productive capacity of industries, to avoid
undue restriction of production (except as may be temporarily
required), to increase the consumption of industrial and
agricultural products by increasing purchasing power, to
reduce and relieve unemployment, to improve standards of
labor, and otherwise to rehabilitate industry and to con-
serve natural resources -

And --

WHEREAS, Congress has not had opportunity to legislate on liquor
control following the repeal of the Eighteenth Amendment, and

WHEREAS, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or
possession of the United States for delivery or use therein of
intoxicating liquors, in violation of the laws thereof, is here-
by prohibited.

And --

WHEREAS, it is in the best interests of the public that all indus-
tries engaged in the production or distribution of alcoholic beverages shall
limit their activities to their reasonable and immediate requirements until

such time as Congress may consider appropriate legislation relating to such industries --

NOW THEREFORE, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the distilled spirits rectifying industry (exclusive of provisions relating to hours of labor, rates of pay and other conditions of employment), and upon approval by the President shall constitute standards of fair competition for such industry and shall be binding upon every member of such industry in the United States; and neither the approval of this Code nor any action taken thereunder by the Federal Alcohol Control Administration, the Code Authority, or by any member of the distilled spirits rectifying industry shall be construed as giving any member of such industry a vested right to continue to participate in the production or distribution of rectified spirits in the United States.

ARTICLE II

Definitions.

Section 1. As used in this Code, --

- (a) The term "President" means the President of the United States.
- (b) The term "Secretary" means the Secretary of Agriculture of the United States.
- (c) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.
- (d) The term "person" means individual, partnership, corporation, association and any other business unit.
- (e) The terms "distilled spirits rectifying industry" and "industry" mean the purifying of distilled spirits, or the mixing, blending, or flavoring of distilled spirits, or the bottling, warehousing or other handling or distribution of rectified distilled spirits, or the sale or other disposition thereof, by a member of the industry or an affiliate or subsidiary thereof.
- (f) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits for beverage use, including all dilutions and mixtures thereof.
- (g) The term "beverage use" means beverage, medicinal, culinary, or any other use except use for industrial purposes.
- (h) The term "rectified product" means any distilled spirits which are a product of the industry.

(i) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(j) The term "employer" means any person by whom any such employee is compensated or employed.

(k) The term "member of the industry" means any person engaged in the distilled spirits rectifying industry as an employer or on his own behalf.

(l) The term "Administration" means the Federal Alcohol Control Administration.

(m) The term "Director" means the director of the Federal Alcohol Control Administration.

(n) The term "Code Authority" means the industry authority established pursuant to this Code.

(o) The term "United States" includes the several States and Territories, the District of Columbia and Puerto Rico.

(p) The term "State" includes Territory and the District of Columbia.

(q) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(r) The term "subsidiary" means any person, of or over whom, a member of the industry has either, directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(s) The term "Affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner, or a subsidiary thereof.

(t) The term "trade buyer" means any buyer of rectified distilled spirits, except an ultimate consumer.

ARTICLE III

Mandatory Labor Requirements

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organ-

ization or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment, to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

Section 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE IV

Permits

Section 1. No person shall engage in the distilled spirits rectifying industry except pursuant to a permit issued by the director. Subject to the provisions of Section 2 of this Article, each member of the industry entitled to the use of plant capacity under Article VIII of this code, shall be entitled to have a permit issued to him upon application therefor, and such permit shall remain in effect during the duration of this Code, unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Article III) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business; or any right to engage in the manufacture or distribution of any rectified product after the termination of the permit.

Section 2. The Administration shall, as a condition precedent to the issuance of a permit, require from the applicant a forfeiture bond in the sum of \$25,000, or such less amount as the Administration may in its discretion deem necessary. This bond shall be conditioned upon compliance with the provisions of this Code (other than the provisions of Article III) and regulations thereunder, in such form and with such surety and such terms and provisions, as the Administration may prescribe.

Section 3. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the director, with the approval of the Administration, for violation of any term or condition thereof.

Section 4. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE V

Unfair Methods of Competition

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

Section 1. False Advertising. To publish or disseminate in any manner any false advertisement of any rectified product. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference it tends to create a misleading impression.

Section 2. Misbranding. To sell or otherwise introduce into commerce any rectified products that are misbranded. Rectified products shall be deemed to be misbranded -

(a) Food and Drugs Requirements. If they are misbranded within the meaning of the Food and Drugs Act.

(b) Standards of Fill. If their container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) Standards of Identity. If they purport to be or are represented as products for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) Standards of Quality. If they purport to be or are represented as products for which standards of quality have been prescribed by regulations of the Administrator, and (1) fail to state on the label, if so required by the regulations, their standard of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(e) Label Requirements. If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulation prescribe.

Regulations for the purpose of this section shall be prescribed by the Administration, but only after due notice and opportunity for hearing to the members of the industry.

Section 3. Commercial Bribery. To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase rectified products of a particular brand or from a particular person, or (b) to refrain from purchasing from or dealing with particular persons.

Section 4. Shipment or Delivery on Consignment. To enter into any agreement or contract the effect of which will amount to the shipment or delivery of rectified products on consignment.

Section 5. Allowances and Rebates for Advertising and Distribution Service. To pay a trade buyer for a special advertising or distributing service, (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate

and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

Section 6. Guarantees Against Decline. To make or give to any trade buyer any guarantee or allowance in any form against or as a result of decline in the seller's price; except pursuant to a contract made prior to the effective date of this Code.

Section 7. Prizes and Premiums. To offer any prize, premium, gift or other similar inducement to either a trade or consumer buyer.

Section 8. Control of Retail Outlets. To hold any interest in any license for the sale of rectified products or distilled spirits at retail for consumption on the premises; or directly or indirectly, to participate or engage in the sale of rectified products or distilled spirits at retail for consumption on the premises; or to control, employ, manage, or financially assist in any manner, any person engaged in the retail sale of products or distilled spirits; or to hold any interest in any premises on which rectified products or distilled spirits are sold at retail for consumption on the premises, unless the holding of such interest is permitted under regulations of the Administration or a statement thereof has been filed with the Administration and has not been disapproved by it; provided that this section shall not be held to prohibit the granting of the credits ordinarily extended by the industry with respect to the sale of rectified products.

Section 9. Sales to Unauthorized Vendors. To sell or otherwise dispose of rectified products or distilled spirits to any person not authorized by license in full force and effect to sell, manufacture or distribute rectified products or distilled spirits, if such a license is required of such person by State law, or to sell or otherwise dispose of rectified products or distilled spirits to any member of an industry covered by any code under the Act pertaining to alcoholic beverages, if such member is engaged in the business without a permit in full force and effect under such code and such a permit is required by the code.

Section 10. Violations of State Law. To transport or import rectified products or distilled spirits into any State or political subdivision thereof for delivery, sale or use therein in violation of the law of such State.

Section 11. To exact or require, by contract, understanding, or otherwise, that any trade buyer who is engaged in the sale of products at retail for consumption on the premises, handle or sell only the products of a particular member of the industry.

ARTICLE VI

Bottling

Section 1. Members of the industry shall sell or dispose of products in bottles only, except in case of sales to rectifiers or blenders or to dispensaries or other agencies operated and maintained by any State or political subdivision thereof, or for export, or for shipment in bond. Nothing in this section shall restrict the sale or other disposition of warehouse receipts covering rectified products in bond, provided such receipts require the bottling of the rectified products prior to removal from the warehouse.

ARTICLE VII

Prices and Terms of Sale

Section 1. Each member of the industry shall keep posted with the Code Authority, in accordance with regulations prescribed by it and by the Administration, and upon request make available to trade and consumer buyers a price list which shall set forth (a) all the brands and types of rectified products offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale of such rectified products.

Sec. 2. The Code Authority shall file with the Administration a copy of each price list so posted and the Code Authority shall, upon request, make available such price lists to the trade and consumer buyers.

Sec. 3. No sale or other disposition of rectified products shall be made by any member of the industry except in accordance with its prices and terms so posted and in effect.

Sec. 4. No member of the industry shall post or keep posted any price or term which (a) will constitute destructive price cutting, or (b) be so high as to encourage directly or indirectly the sale of rectified products in violation of law, or (c) be oppressive to the consumer. A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

Sec. 5. If, after investigation, the Code Authority finds that any price or term posted under this Article is not in conformity with the requirements of section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

Sec. 6. If the Administration is of the opinion that the prices or terms posted for any class or type of rectified products are contrary to the requirements of section 4, it may report such fact to the Code Authority. If the Code Authority does not within ten days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of section 4.

Sec. 7. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms of sale, as disclosed in the posted price list, is prohibited.

Sec. 8 The posting or publishing of any false or fictitious price list or the use of invoices which falsely indicate prices, discounts, or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transactions represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE VIII

Control of Plant Capacity and Production

Sec. 1 No person shall utilize for the production of rectified products plant capacity in excess of that held by him on the date of the repeal of the Eighteenth Amendment or on the effective date of this Code, whichever is the earlier: except that (a) any person engaged in the distilled spirits rectifying industry on such date, or (b) any person having a plant for the production of rectified products in process of construction or in the process of equipment on such date, or (c) any person holding a permit in full force and effect pursuant to the Code of Fair Competition for the Distilled Spirits Industry, may utilize for the production of rectified products plant capacity acquired or constructed by him in addition to the foregoing, if in the judgment of the Administration, after due notice and opportunity for hearing, such additional utilization of plant capacity is necessary to meet the consumptive demand for rectified products or any class or type thereof. Nothing in this section shall be construed to prevent any person from constructing new plant capacity, to replace abandoned or destroyed plant capacity, which could be utilized under the provisions of this section.

Sec. 2 If the Administration finds, after due notice and opportunity for hearing, that the present or potential production of rectified products is larger than the probable demand therefor, so as to tend to produce an excessive accumulation of stocks, excessive competition for sales, or other detrimental marketing conditions in the industry, and thereby tends to prevent the effectuation of the declared policy of the Act, or the purposes of this Code, the Administration, in consultation with the Code Authority, may, notwithstanding the provisions of section 1, limit the production and distribution of rectified products and allocate the production thereof among the members of the industry, and may provide for the orderly distribution of accumulated stocks. If the Administration finds, after due notice and opportunity for hearing, that the current supply of any class or type of rectified products, is or is likely to be inadequate to meet the consumptive demands, it may authorize and, in consultation with the Code Authority, allocate additional production.

ARTICLE IX

Reports

Section 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relative to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (a) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (b) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

Section 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall see to it that their respective subsidiaries and affiliates keep such records.

Section 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE X

Code Authority

Section 1. There shall be a Code Authority selected by the members of the industry pursuant to a plan submitted by members of the industry and approved by the Administration. The members of the Code Authority shall be subject to the approval of the Administration and subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration; and to foster and promote the observance of this code by members of the industry.

(b) To prescribe rules for the performance of its functions subject to the approval of the Administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration may from time to time request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the administration of this Code.

(f) To receive and investigate charges of apparent violations of this Code and to report to the Administration its findings of fact on such charges. This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.

Section 2. If the members of the industry fail to submit a plan under section 1 within five days after the effective date of this Code, or if the plan submitted is not approved by the Administration, then the Administration may establish and provide for the selection of the members of the Code Authority according to a plan prescribed by the Administration.

ARTICLE XI

Federal Alcohol Control Administration

Section 1. The Federal Alcohol Control Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code, which it is authorized to administer, and may make such interpretations of such provisions and such regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

Section 2. The Administration may investigate any apparent violation of the provisions of this Code and may take such action in the premises as it deems necessary.

ARTICLE XII

Duration of Immunities

Section 1. The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XIII

Agents

Section 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XIV

Modification

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation, issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XV

Application of Code to Other Industries

Section 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and affect only that part of the business of such member of the industry which is included in the distilled spirits rectifying industry.

ARTICLE XVI

Effective Date

Section 1. This Code shall be effective the day following its approval by the President of the United States.

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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED
CODE OF FAIR COMPETITION
FOR
DISTILLED SPIRITS CODE AND MARKETING AGREEMENT COMMITTEE
AS SET FOR HEARING
November 23, 1933

The Code for the Distilled Spirits Industry
in its present form merely reflects the
proposal of the above mentioned Industry
and none of the provisions contained therein
are to be regarded as having received the
approval of the Agricultural Adjustment
Administration or the National Recovery
Administration as applying to this Industry.

(6) The term "Distilled Spirits Industry" as used herein is defined to mean the distillation and/or rectification of distilled spirits exclusive of rum, brandy and/or brandy spirits for wine fortification for other than industrial use and the bottling and sale thereof by such distillers and/or rectifiers and by warehousemen who have been given an allotment by the Commissioner of Industrial Alcohol to produce spirits by distillation since 1929.

(7) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(8) The term "watchmen" as used herein includes only employees whose principal function is watching and guarding the premises and property of the establishment.

(9) The term "outside salesmen" as used herein shall mean any salesman who performs exclusively selling functions and does not deliver.

(10) The term "employer" means any person by whom any such employee is compensated or employed.

(11) The term "member of the industry" means any person engaged in the industry as an employer.

(12) The term "Code Authority" as used herein means that body referred to in Article VIII hereof.

(13) The term "distiller" as used herein is defined to mean any person who produced distilled spirits, or who brews or makes mash, wort, or wash fit for distillation or for the production of spirits or who, by any process of evaporation separates alcoholic spirits from any fermented or other substances for other than industrial purposes. The foregoing does not include those who produce rum and/or brandy by distillation.

(14) The term "rectifier" as used herein means any person who rectifies, purifies, or refines distilled spirits by any process other than by original and continuous distillation from mash, wort, or wash, through continuous closed vessels and pipes until the manufacture thereof is completed, and any person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits with any materials, manufacture any spurious, imitation, or compound liquors for selling under the name of "Whiskey," "Brandy," "Gin," "Rum," "Spirits," "Cordials," or any other name, and who is also a distiller or is subsidiary to or affiliated with a distiller or is under substantially the same management or control as a distiller.

(15) The term "distilled spirits" as used herein is defined to mean and include that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, which is commonly produced by the fermentation of grain, starch, molasses, or sugar, including all dilutions and mixtures of this substance produced for other than industrial purposes. The foregoing does not include rum and/or brandy produced by distillation.

(16) The term "industrial purposes" as used herein applies only to spirits distilled and warehoused above 160° proof, and such other spirits as are sold under regulations promulgated under the provisions of Title III of the National Prohibition Act, and includes any of such spirits when used for other than beverage and rectified liquor purposes.

(17) The term "products of the industry" as used herein shall include distilled spirits for other than industrial purposes and those products produced by a rectifier with distilled spirits but shall not include rum and/or brandy produced by distillation.

(18) The term "State" includes Territory and the District of Columbia.

(19) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

(20) The term "subsidiary" means any person, of or over whom, a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(21) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner.

Article III

Labor Provisions.

Hours.

(1) No employee shall be permitted to work in excess of forty-two (42) hours in any one week or eight (8) hours in any one day or six (6) days in any seven day period with the following exceptions:

(a) Executive, supervisory, technical and administrative employees, provided that they receive regularly \$35.00 a week or more, and outside salesmen.

(b) Technical men who are paid less than \$35.00 per week and who do not constitute more than 2 per cent of the total number of employees, but each plant shall be entitled to at least one.

(c) Watchmen, provided, however, that they shall not work more than fifty-six (56) hours per week.

(d) Chauffeurs and deliverymen, provided, however, that they shall not work more than forty-eight (48) hours per week nor more than six (6) days in any seven day period.

(2) The maximum hours established shall not apply in those departments or divisions of the distilled spirits industry in which peak or seasonal demand places an unusual or temporary burden on production in such departments and divisions except that in such cases employees may work not to exceed forty-eight (48) hours per week and ten (10) hours per day in any twenty weeks' period in any calendar year, but in any such case at least time and one-third shall be paid for all hours worked in excess of forty-two (42) hours per week and eight (8) hours per day.

(3) The maximum hours fixed in the foregoing sections shall not apply to employees on emergency repair work, provided that any such employee working in excess of forty-two hours per week or eight hours per day shall be paid at the rate of at least time and one-third for such overtime.

(4) No employer shall knowingly permit any employee to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.

Article IV

Wages.

(1) No clerical, accounting or other office employee shall be paid at a rate of less than \$16.00 per week, except that office boys and/or office girls and messengers may be employed at not less than \$14.00 per week.

(2) No watchman shall be paid at a rate of less than \$16.00 per week.

(3) No employee other than those covered in paragraphs (1) and (2) above shall be paid at a rate of less than forty cents (40¢) per hour.

(4) It is agreed that this Code guarantees a minimum rate of pay regardless of whether the employee is compensated on the basis of time rate or piece work performance.

(5) It is agreed that equitable adjustments will be made in the cases of those employees now receiving more than the minimum in order to maintain fair differentials between employees.

Article V

General.

(1) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

(2) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

(3) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

(4) On and after the effective date of this Code, no person under 18 years of age shall knowingly be permitted to work in the industry.

(5) Within each state, members of the industry shall comply with any valid laws of such state or valid local ordinances imposing more stringent requirements, regulating the minimum age of employment, wages, hours of work, health, fire or general working conditions, than under this Code, provided that any person violating any of the provisions thereof shall be amenable only to the penalties of such state law or local ordinance.

(6) Employers shall not reclassify employees or duties of occupations performed by employees for the purposes of defeating the provisions of the Act.

Posting.

(1) Each employer shall post in a conspicuous place of easy and continuous access to employees the articles dealing with hours, wages, and general labor provisions of this Code.

(2) All changes in the provisions of these aforesaid articles shall be posted within one week after such changes have been incorporated in the Code.

Article VI

General Trade Practices.

No member of the industry shall engage in any way in any of the following practices which are prohibited as Unfair Methods of Competition.

1. Unethical Publicity.

The publishing or causing to be published by a member of the industry of false or misleading advertising or publicity pertaining to the grade or quality of his industry products, or the publishing or dissemination of any false or misleading statement respecting another member of the industry, or any officer, employee or director thereof, or respecting the grade or quality of the products of another member of the industry.

2. Commercial Bribery.

The giving or permitting to be given money or anything of substantial value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

3. False Invoicing.

The publishing of any false or fictitious price list or the use of invoices which falsely indicate prices, discounts or terms of any sale, or inserting in the invoice statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or withholding from the invoice statements which properly should be included therein, so that, in the absence of such statement, the invoice does not truly reflect the transaction involved.

4. Shipment or Delivery on Consignment.

The making of or entering into any agreement or contract the effect of which will amount to the shipment and/or delivery of distilled spirits on consignment. "Consignment", as used herein, means the shipment or delivery of products under an arrangement whereby the person receiving such products has the right at any time prior to sale to return them to the shipper and whereby the title to such products remains in the shipper.

5. Open Prices.

Each member of the industry shall make and settle all sales upon the basis of open prices (a) which shall be uniform to all trade buyers of the same quantity under the same conditions of delivery and credit service, who are in the same competitive market, and (b) which shall be strictly adhered to while effective.

The term "open prices," as used herein, means a price list (a) which is available for the equal information of all trade buyers of the same class, in the same competitive market, and (b) which states all the sellers' prevailing terms of sale.

6. Secret Rebates.

The secret payment of allowances or rebates, refunds, concessions, advertising allowances or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all under like terms and conditions.

7. Advertising Allowances and Rebates.

No member of the industry shall pay a trade buyer for a special advertising or distributing service by such buyer (a) except in pursuance of a written contract made in good faith; and (b) unless such service is duly rendered and such payment is reasonable and not excessive in amount; and (c) unless such payment is equally available to all competitive buyers in the same trade area under like conditions.

8. Guarantee Against Decline.

The making or giving to any purchaser of products of the industry any guarantee or allowance in any form against decline in the market price of such products, except that this provision shall not apply to guarantees or allowances by vendors by reason of and to the extent of their own reductions in price on distilled spirits which are bottled and branded.

9. Cash Discount.

No member of the industry shall allow a cash discount which is not earned by payment in accord with the published cash discount terms as stated by him in his base price schedule.

10. Prizes and Premiums.

No member of the industry shall offer any prize or premium or gift to either a trade or a consumer buyer in pursuance of a plea which involves fraud or deception or lottery.

11. Tied Houses.

No member of the industry shall acquire any interest in any license to sell distilled spirits for consumption on the premises covered by such license nor shall any member of the industry, directly or indirectly, or through a subsidiary manage or control the business of selling the products of the industry for consumption on the premises where sold, nor shall any member of the industry lend money to anyone who sells products of the industry for consumption on his premises. Nothing herein shall be construed to prohibit the ordinary and usual commercial credits for products of the industry.

12. State Laws.

Each member of the industry shall so far as it is within its power uphold all and any legally valid systems of distribution of distilled spirits which may be adopted by any of the States of the Union or political subdivisions thereof, so far as is possible prevent the shipment of products of the industry into those States or political subdivisions thereof wherein the manufacture and/or sale of such products is prohibited and generally encourage and cooperate with the policy of the United States, the several States, and political subdivisions thereof, in controlling and regulating the distribution of distilled spirits.

Article VII

Reports.

Section 1. The members of the industry shall severally, from time to time, upon the request of the Secretary (or the Secretary or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms or reports to be supplied, as may be necessary for the purposes of administering the provisions and effectuating the purposes of this code, such reports to be verified under oath.

Section 2. The members of the industry shall severally permit, for the same purposes and/or to enable the Secretary or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, engaged in the industry, to be examined by the Secretary or the National Recovery Administrator during the usual hours of business.

Section 3. The members of the industry shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall see to it that their respective subsidiaries and affiliates, engaged in the industry, keep such records.

Section 4. All information furnished the Secretary pursuant to this article shall remain confidential and shall not be disclosed except upon lawful demand by the President, either House of Congress or any committee thereof or by any court of competent jurisdiction.

Article VIII

Administration.

Section 1. Supervisory Committee.

A committee which shall be known as the Code Authority shall be established by the Industry for the purpose of administering, supervising and promoting the performance of the provisions of this Code. This Committee shall be selected immediately upon the approval of this Code and in accordance with the following rules:

The Code Authority shall be composed of thirteen members, who shall serve for one year and until their successors are selected and qualified, all of whom shall be engaged in the "distilled spirits industry" and selected by the members of such industry as follows:

(1) Seven members to be selected from among, and by, those who are engaged in the production of distilled spirits other than rum and/or brandy warehoused at or below 110° of proof; and

(2) Six members to be selected from among, and by, those who are engaged in the production of distilled spirits other than rum and/or brandy warehoused at or above 160° of proof;

(3) Each member of the industry coming within both of the divisions of the industry described in paragraphs (1) and (2) of this section shall select in which one of those divisions he elects to vote for representatives on the Code Authority, and shall be limited to the division so selected, and shall be entitled to one vote for each member of the Code Authority in that division.

For the purpose of voting where two or more members of the industry are in the relationship of parent and subsidiary, are affiliated, or are under substantially the same control or management, then all such members,

shall vote as a unit and shall be entitled to one vote for each member of the Code Authority representing the division of the industry in which it as a unit falls, or if falling in more than one division, has selected as above.

Where a member of the industry is owned or controlled by two or more members of the industry such member shall not be entitled to vote.

Not more than one officer, director, or employee of a member of the industry or of the entities forming a group entitled to vote as a unit as above shall be a member of the Code Authority.

(4) The members of the Code Authority shall be subject to the approval of the Secretary.

(5) The Secretary and the Administrator may each appoint a representative who shall have the right, without expense to the industry, to attend all meetings of said Code Authority, but such representatives shall have no vote.

(6) Any vacancies occurring in the membership of the Code Authority shall be filled for the unexpired term by the vote of the Code Authority, and such new members shall be selected from the division of the industry as to which the vacancy occurs and shall be subject to the approval of the Secretary.

(7) In the selection of the Code Authority a vote cast by mail or by proxy shall have the same force and effect as a vote cast in meeting.

(8) The Code Authority shall have as its Chairman one of its members duly elected by the Code Authority.

(9) The Code Authority is hereby vested with power to adopt such rules and regulations for the administration and supervision of the provisions of this Code as are not inconsistent with the provisions thereof. Said Code Authority is hereby empowered to delegate, subject to the approval of the Secretary, and/or the Administrator, any of its Authority hereunder as it may see fit.

(10) Rules, Regulations and Decisions. Rules, regulations and decisions of the Code Authority pertaining to provisions of this Code, other than labor provisions, shall be submitted for consideration to the Secretary of Agriculture and such rules, regulations or decisions shall be subject to his approval. Rules, regulations and decisions of the Code Authority affecting the labor provisions of this Code shall be submitted for consideration to the Administrator and such rules, regulations or decisions shall be subject to his approval.

Provided that if such approval is not announced within thirty days after such submission the Code Authority may act in accordance with such rule, regulation or decision until such time as the rule, regulation or decision shall be disapproved.

Section II. Enforcement.

The powers and duties of the Code Authority shall be as follows:

(1) To administer this Code subject to review, approval and regulation by the Secretary.

(2) To act as the agency through which the industry may make recommendations to effectuate the public policy of Title I of the Act, provided, however, as regards all matters mentioned in the paragraph (2) said Code Authority shall not have the power in any way to bind the industry.

(3) To receive and hear complaints of alleged violations of this Code.

(4) To submit to the Secretary when necessary reports of apparent violations found in pursuance of the administration, Article VIII, Section II, Clause (3).

Section III. Expense.

This Code Authority is authorized to incur such expenses and make such expenditures as may be necessary in the performance of its functions as outlined in this Code in accordance with a budget to be made available to the members of the Industry and each member of the industry voting for a representative on the Code Authority shall at that time agree to pay his equitable pro rata share of the cost of administering this Code in accordance with rules and regulations to be adopted by the Code Authority with the approval of the Secretary.

Article IX

Duration of Immunities.

Section 1. The benefits, privileges and immunities conferred by this code shall cease upon its termination except with respect to acts done prior thereto.

Article X

Agents.

Section 1. The Secretary and the National Recovery Administrator may each by designation in writing name any person, including any officer or employee of the Government, to act as his agent in connection with his respective powers and duties under any provision of this code.

Article XI

Modification.

Section 1. This code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of section 10 (b) of the act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under the act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of the code or any conditions imposed by him upon his approval thereof.

Article XII

If any member of the Industry is also engaged in any other industry or trade, the provisions of this Code shall apply to and affect only that part of the business of such member of the industry which is included in the Distilled Spirits Industry.

Article XIII

Nothing herein shall affect or apply to contracts entered into prior to the effective date hereof.

Article XIV

Effective Date.

This Code shall be effective the fifth day after the Code is approved and signed by the President of the United States, provided, however, that the provisions of Sections 4, 5, 6, 7, 8 and 9 of Article VI hereof shall not be effective unless and until such time thereafter as, pursuant to the National Industrial Recovery Act, a Code or codes of fair competition embodying the principles of said sections of said Article VI is or are approved and effective for those persons engaged in the business of importing, rectifying, and/or selling at wholesale distilled spirits.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED CODE OF FAIR COMPETITION - DISTILLED SPIRITS

SUBMITTED BY: DISTILLED SPIRITS INDUSTRY

DRAFTED: November 1933

I, Ammon McClellan, Chief Hearing Clerk, Department of Agriculture, do hereby certify that this is a true and correct copy of the Code of Fair Competition for the Distilled Spirits Industry delivered to this office from Mr. Harris E. Willingham, Chief, Beverage Section.

Ammon McClellan,
Chief Hearing Clerk
5428 South Building,
Department of Agriculture.

UNITED STATES DEPARTMENT OF AGRICULTURE.
AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED
MARKETING AGREEMENT
FOR
DISTILLED SPIRITS CODE AND MARKETING AGREEMENT COMMITTEE
AS SET FOR HEARING
November 23, 1933

The Marketing Agreement for the Distilled Spirits Industry in its present form merely reflects the proposal of the above mentioned Industry and none of the provisions contained therein are to be regarded as having received the approval of the Agricultural Adjustment Administration as applying to this Industry.

MARKETING AGREEMENT FOR THE DISTILLED
SPIRITS INDUSTRY

The parties to this agreement are the contracting distillers of the United States of the Secretary of Agriculture of the United States.

WHEREAS, pursuant to the Agricultural Adjustment Act, approved May 12, 1933, as amended, the parties hereto, for the purpose of effectuating the policies of Title I of the said Act during the period of the emergency, by establishing and maintaining a proper balance between the production and consumption of agricultural commodities and marketing conditions therefor, and by reestablishing prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities during the period August, 1909-July, 1914, desire to enter into a marketing agreement under the provisions of Section 8 (2) of the Agricultural Adjustment Act; and

WHEREAS, the contracting distillers manufacture or produce more than seventy-five per cent (75%) of the distilled spirits, as hereinafter defined, manufactured or produced in the United States; and

WHEREAS, the manufacture, production and distribution of such distilled spirits manufactured or produced by the contracting distillers enters into both the current of interstate commerce and the current of intrastate commerce, which are inextricably intermingled;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I.

Definitions.

As used in this agreement, the following words and phrases shall be defined as follows:

1. The term "Secretary" as used herein means the Secretary of Agriculture of the United States or his duly designated nominee.

2. The term "Distilled Spirits Industry" as used herein means the production of spirits distilled for other than industrial purposes. This definition does not include the production of rum or brandy or brandy spirits for wine fortification. The term "Industrial Purposes" as used herein applies only to spirits distilled and warehoused above 160° proof and such other spirits as are sold under regulations promulgated under the provisions of Title III of the National Prohibition Act, and includes any of such spirits when used for other than beverage and rectified liquor purposes.

3. The term "Distiller" as used herein means and includes, but without limitation, any person, firm, corporation or association engaged in the conduct of business in the distilled spirits industry as defined in sub-section 2 hereof.

4. The term "Distilled Spirits" as used herein means spirits produced by the process of distillation for other than industrial purposes and other than rum or brandy and brandy spirits for wine fortification.

5. The term "Act" as used herein means the Agricultural Adjustment Act, as amended.

6. The term "United States" as used herein includes the United States and its possessions except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and the Island of Guam.

7. The term "Records" means any books, records, accounts, contracts, documents, memorandum, papers, correspondence or other written data pertaining to the business of the distillers in question.

ARTICLE II.

American Grain.

No distiller shall, except as otherwise hereinafter provided, produce distilled spirits for other than industrial purposes from any product or commodity other than grain and grain products purchased in the United States and all orders placed by such distillers for such grain or grain products shall require that deliveries thereon be made of grain or products produced from grain grown in the United States, and that invoices therefor shall so certify. This provision does not apply to grain purchased or contracted for by distillers prior to the effective date hereof.

ARTICLE III.

Except as otherwise herein provided, each such distiller agrees to use only grain or grain products purchased in the United States as provided in Article II hereof in the production of such distilled spirits, and agrees to pay on grain (excluding malt) weighed into the mash, after the effective date hereof, in addition to any current processing tax imposed by the Secretary under the provisions of the Act on such grain a benefit which, when added to the total of such distiller's cost of such grain and such processing tax, if any, will produce an amount equal to the current parity price of such grain as determined by the Secretary, and agrees to pay on grain products used by such distiller, weighed into the mash, after the effective date hereof, an amount which, when added to the grain cost of the grain products and the processing tax paid thereon, if any, will produce an amount equal to the current parity price of the grain as determined by the Secretary, following the provisions of Section 2 (1) of Title I of the Act. ("Distillers' cost" of grain as used herein shall be each distiller's average cost per bushel of such grain in the market in which purchased on deliveries made to him during the calendar month preceding the month in which the ground grain is

weighed into the mash., Cost to the manufacturer of grain products as used herein shall be determined from such manufacturer's average cost per bushel of such grain in the market in which purchased on deliveries made to him during the calendar month preceding the month in which the grain products are sold by him to the distiller.) The payment of such benefit shall be made in such manner and at such times as the Secretary may prescribe and the funds so paid shall be used by him for the purposes set forth in the Act.

ARTICLE IV.

Administration.

Section 1. Supervisory Committee. A committee which shall be known as the Distillers Board shall be established by the contracting distillers for the purpose of administering, supervising and promoting the performance of the provisions of this Agreement. This Committee shall be selected immediately upon the signature of the Secretary to this Agreement and in accordance with the following rules:

The Distillers Board shall be composed of thirteen members, who shall serve for one year and until their successors are selected and qualified, all of whom shall be engaged in the "distilled spirits industry" and selected by the distillers signatory to this Agreement as follows:

(1) Seven members to be selected from among, and by, those who are engaged in the production of distilled spirits other than rum, brandy and brandy spirits for wine fortification warehoused at or below 110° of proof; and

(2) Six members to be selected from among, and by, those who are engaged in the production of distilled spirits other than rum, brandy and brandy spirits for wine fortification warehoused at or above 160° of proof;

(3) Each distiller coming within both of the divisions of the industry described in paragraphs 1 and 2 of this section shall select in which one of those divisions he elects to vote for representatives on the Distillers Board, and shall be limited to the division so selected, and shall be entitled to one vote for each member of the Distillers Board in that division.

For the purpose of voting where two or more distillers are in the relationship of parent and subsidiary, are affiliated, or are under substantially the same control or management, then all such distillers shall vote as a unit and shall be entitled to one vote for each member of the Distillers Board representing the division of the industry in which it as a unit falls, or if falling in more than one division, has selected as above.

Where a distiller is owned or controlled by two or more distillers such distiller shall not be entitled to vote.

the Board may prescribe subject to the approval of the Secretary, be assessed substantially in proportion to the production in proof gallons of each distiller and paid by such distillers.

ARTICLE V.

Books, Records and Reports.

Section 1. Accounts. Each distiller shall severally keep books and records which will clearly reflect all financial transactions of its business and the financial condition thereof, and shall see to it that its subsidiaries and affiliates, engaged in the industry, keep such records.

Section 2. Reports. Each distiller, from time to time, upon the request of the Secretary, shall furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purpose of assisting the Secretary in determining whether such distiller is complying with the terms of this Agreement, such reports to be verified under oath.

Section 3. Each distiller shall permit, for the purpose of enabling the Secretary to verify the information furnished on said forms of reports, such of their records and records of their affiliates and subsidiaries engaged in the industry as may be necessary to be examined by the Secretary during the usual hours of business.

Section 4. All information obtained by or furnished to the Secretary pursuant to the foregoing sections, if designated in writing as confidential when obtained or so furnished, shall remain the confidential information of the Secretary and shall not be disclosed except upon lawful demand by the President, either House of Congress or any committee thereof or by any court of competent jurisdiction.

ARTICLE VI.

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, to act as his agent in connection with any of the provisions of this Agreement. The action of such agent shall be subject to review by the Secretary upon appeal by any interested party.

ARTICLE VII.

Duration and Amendments.

1. Effective date of execution.

(a) This agreement shall be effective as of the date on which the Secretary attaches his signature hereto.

(b) This agreement may be executed in multiple counterparts which when signed by the Secretary, shall constitute, taken together, one and the same instrument as if all such signatures were contained in one original.

Not more than one officer, director, or employee of a distiller or of the entities forming a group entitled to vote as a unit as above shall be a member of the Distillers Board.

(4) The members of the Distillers Board shall be subject to the approval of the Secretary.

(5) The Secretary may appoint a representative who shall have the right, without expense to the industry, to attend all meetings of the Distillers Board, but such representatives shall have no vote.

(6) Any vacancies occurring in the membership of the Distillers Board shall be filled for the unexpired term by the vote of the Distillers Board, and such new members shall be selected from the division of the industry as to which the vacancy occurs and shall be subject to the approval of the Secretary.

(7) In the selection of the Distillers Board a vote cast by mail or by proxy shall have the same force and effect as a vote cast in meeting.

(8) The Distillers Board shall have as its Chairman one of its members duly elected by the Distillers Board.

(9) The Distillers Board is hereby vested with power to adopt, subject to the approval of the Secretary, such rules and regulations for the administration and supervision of the provisions of this Agreement as are not inconsistent with the provisions thereof. Said Distillers Board is hereby empowered to delegate, subject to the approval of the Secretary, any of its Authority hereunder as it may see fit.

The Distillers Board is hereby designated the agency for the purpose of communicating with the Secretary and assisting him in the administration and supervision of this agreement and encouraging compliance with the provisions thereof. The Distillers Board, subject to the approval of the Secretary, is hereby authorized to and shall employ such person or persons as it may deem necessary, or to create such corporation as it may deem necessary, which person or persons or corporation is hereby authorized to collect and receive from each distiller or special license the benefit payments provided for in Article III and Article VIII, respectively, hereof, and to examine such of the records of each distiller and/or special licensee to the extent necessary to ascertain whether the provisions of this Agreement are being complied with. Such person or persons, or the officers, directors, or employees of such corporation shall not be engaged in the distilled spirits industry or be connected with or interested in a distillery and all information received by such person or persons, or such corporation shall be held strictly confidential and shall not be revealed by him, them or it, to the Distillers Board or anyone else except the Secretary and the Secretary shall not reveal such information except upon lawful demand by the President, either House of Congress or any committee thereof, or any court of competent jurisdiction.

Section 2. Expenses. The expenses incurred by the Distillers Board and such person or persons, or such corporation shall, under such rules and regulation as

(c) After this agreement takes effect any distiller in the United States may become a party to this agreement if a counterpart thereof is executed by him and by the Secretary. This agreement shall take effect as to such distillers at such time as the Secretary may declare above his signature attached to such counterpart.

2. Duration. This agreement shall continue in force and effect until the provisions of Title I of the Act authorizing it shall cease to be in effect; except that

(a) The Secretary may at any time by press release or such other notice as he may determine, terminate this agreement; and

(b) The Secretary may for good cause shown, at any time terminate this agreement as to any party hereto by notice in writing deposited in the registered mails and addressed to such party at the address of such party on file with the Secretary; and

(c) The Secretary shall terminate this agreement upon presentation of facts to him satisfying him that the result hereof is to create a situation prejudicial to the distillers signatory hereto in the legitimate distribution of distilled spirits.

(d) At any time after the expiration of ninety days from the effective date hereof, it shall terminate immediately upon the filing of an application to such effect in the office of the Secretary, which application must be signed by 75% of the distillers signatory hereto.

(e) It shall terminate in any event at the expiration of two years from the effective date thereof.

(f) The benefits, privileges and immunities conferred by virtue of this agreement shall cease upon its termination except with respect to acts done prior thereto, and the benefits, privileges and immunities conferred by virtue of this agreement upon any party hereto shall cease upon its termination as to such party except with respect to acts done prior thereto;

ARTICLE VIII.

Licenses.

The Contracting Distillers hereby apply for and consent to licensing by the Secretary, in accordance with the terms and conditions of this agreement; provided, however, that special licenses may be issued by the Secretary to any distillers who make application therefor, to manufacture or produce distilled spirits from products other than grain for other than industrial purposes. Such special licenses shall specify the quantity of distilled spirits to be produced from products other than grain which such licenses may so produce and the expiration date thereof both to be fixed by the Secretary.

Provided, That such special licenses shall require the holders thereof to pay such benefits in accordance with the provisions of Article III hereof as the Secretary finds is substantially equal per proof gallon of distilled spirits to the sum of the processing tax and benefit paid by the distillers using grain.

Provided further, That no license issued by virtue of this agreement or under the provisions of the Act shall be deemed to authorize the production of distilled spirits without such additional license or permit as may be required by any other Act of Congress.

IN WITNESS WHEREOF the Contracting Distillers, acting under the provisions of the Agricultural Adjustment Act, and not otherwise, for the purposes and within the limitation herein contained, have authority set their respective hands and seals.

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED MARKETING AGREEMENT - DISTILLED SPIRITS

SUBMITTED BY : DISTILLED SPIRITS INDUSTRY

I, Ammon McClellan, Chief Hearing Clerk, Department of Agriculture, do hereby certify that this is a true and correct copy of the Marketing Agreement for the Distilled Spirits Industry, delivered to this office from Mr. Harris E. Willingham, Chief, Beverage Section.

Ammon McClellan,
Chief Hearing Clerk
5428 South Building,
Department of Agriculture.

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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

REVISION OF THE PROPOSED MARKETING AGREEMENT
FOR THE DISTILLED SPIRITS INDUSTRY AS
RECOMMENDED BY THE AGRICULTURAL ADJUSTMENT
ADMINISTRATION AND APPROVED BY THE
SECRETARY OF AGRICULTURE FOR SUBMISSION TO
THE MEMBERS OF THE DISTILLED SPIRITS INDUSTRY

DECEMBER 7, 1933.

MARKETING AGREEMENT FOR THE
DISTILLED SPIRITS INDUSTRY

ARTICLE I

Purposes

The parties to this agreement are the contracting distillers and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress as set forth in Section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended, -

- (a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909 - July 1914, and in the case of tobacco, the base period being the post-war period, August 1919 - July 1929;
- (b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and
- (c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909 - July 1914; - and -

WHEREAS, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of correcting conditions now existing, or likely to exist after the repeal of the Eighteenth Amendment, in the marketing of domestic agricultural commodities ordinarily used in the distilled spirits industry, and of effectuating the declared policy of the Act, desire to enter into a marketing agreement under the provisions of Section 8 (2) of the Act;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE II

Definitions.

Section 1. As used in this Agreement, -

(a) The term "Secretary" means the Secretary of Agriculture of the United States.

(b) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(c) The term "person" means individual, partnership, corporation, association and any other business unit.

(d) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other alcoholic spirits for beverage use, produced by the separation of alcoholic spirits by a process of evaporation or otherwise from any fermented or other substance.

(e) The term "beverage use" means beverage, medicinal, culinary, or any other use except use for industrial purposes.

(f) The term "contracting distiller" means any person, a party signatory to this Agreement according to the terms thereof, who is engaged in the production of distilled spirits in the United States.

(g) The term "United States" includes the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone and Island of Guam.

(h) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, correspondence or other written data pertaining to the business of the person in question.

(i) The term "subsidiary" means any person, of or over whom, the contracting distiller has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(j) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a contracting distiller, whether by stock ownership or in any other manner.

(k) The term "Administration" means the Federal Alcohol Control Administration.

(l) The term "Code Authority" means the Code Authority established pursuant to the provisions of the Code of Fair Competition for the Distilled Spirits Industry.

ARTICLE III

Use of Cereal Grains

Section 1. Except as provided by special permit issued pursuant to Article V, each contracting distiller agrees to manufacture distilled spirits (including any mash, wort or wash used therefor) after the effective date of this Agreement, exclusively from cereal grains or their products; and to market for beverage use only such distilled spirits now held or hereafter acquired by him as are manufactured from cereal grains or their products.

Section 2. This Article shall not apply to rum or brandy or brandy spirits for wine fortification.

ARTICLE IV

Payment of Parity Price

Section 1. Each contracting distiller agrees to pay for all cereal grain or products thereof, used by him after the effective date of this Agreement, in the manufacture of distilled spirits, a total amount per unit not less than the fair exchange value therefor. The fair exchange value shall be promulgated hereunder by the Secretary from time to time. The fair exchange value for cereal grains shall be as defined in the Act; and the fair exchange value for products thereof shall be determined in accordance with conversion factors to be established by the Secretary.

Section 2. For the purposes of this Agreement the Secretary shall promulgate hereunder from time to time a current average farm price for cereal grains and their products. The current average farm price for cereal grains shall be determined as provided in the Act; and a current average farm price for their products shall be determined in accordance with conversion factors to be established by the Secretary.

Section 3. Whenever the sum of (1) the current average farm price for any cereal grain or product thereof used by contracting distillers, plus (2) the processing or other tax under the Act, if any, paid with respect thereto or with respect to a commodity from which processed or derived directly or indirectly, is less than the fair exchange value for such grain or product, the contracting distillers shall pay the amount of such difference (hereinafter known as the parity payment) into the Treasury of the United States or such other depository as may be designated by regulations of the Secretary.

Section 4. Payments under this section shall be made at such times and in such manner, and shall be computed in accordance with such requirements, as may be prescribed by regulations of the Secretary. Such amounts shall be utilized for rental or benefit payments or other disbursements under the Act made with respect to grain.

Section 5. This Article shall not apply to barley malt.

ARTICLE V

Special Permits

Section 1. Upon application to the Secretary, made in accordance with such regulations as the Secretary shall prescribe, the Secretary is authorized, from time to time, to issue to contracting distillers special permits for the manufacture of designated amounts of ethyl alcohol to be used for the manufacture of gin or the rectification of distilled spirits and to be manufactured from commodities other than cereal grain or products thereof. The aggregate amount of ethyl alcohol so authorized for manufacture during any period shall (if applications in sufficient amount are made) be not less than ten per centum of the amount of ethyl alcohol required for manufacture of gin or the rectification of distilled spirits during such period. The amount so required shall be estimated by the Secretary from available data of the Government or the Code Authority. Notwithstanding the foregoing limitation the Secretary may issue additional special permits to contracting distillers for the manufacture during such period of distilled spirits from commodities other than cereal grains and their products, if during such period there will not, in the judgment of the Secretary, be available an adequate supply of distilled spirits manufactured from cereal grains or products thereof. The Secretary shall specify in any such permit the commodity, source, and quantity permitted to be so used, the period during which the commodity may be so purchased and used, and such other terms and conditions as may be necessary. Such additional special permits shall not be issued whenever, in the judgment of the Secretary, the issuance of such permits will prevent or tend to prevent the effectuation of the declared policy of the Act.

Section 2. It shall be a condition of any such permit that the permittee shall pay an amount, per unit of the commodity used under permit, equal to the parity payment, if any, then in effect per equivalent unit of the cereal grain or product thereof, if any, normally used, or available for use by the permittee. In addition, if no processing or other tax under the Act is in effect with respect to the commodity used under permit, the amount to be so paid shall be increased by the amount of the processing or other tax under the Act, if any, then in effect per equivalent unit of such cereal grain or product thereof.

Section 3. Payments under this Article shall be paid into the Treasury of the United States or such other depository as the Secretary may by regulation provide; and shall be made at such times and in such manner; and shall be computed in accordance with such requirements, as may be prescribed by regulations of the Secretary. Such payments shall be utilized in the same manner as payments under Article IV.

Section 4. The Secretary shall by regulation establish such conversion factors as may be necessary for the purposes of this Article.

ARTICLE VI

Reports

Section 1. The contracting distillers shall severally, from time to time, upon the request of the Administration or the Secretary, furnish such information, on and in accordance with forms of reports to be supplied, as may be necessary for the purposes of (1) assisting the Administration or the Secretary in the furtherance of their powers and duties with respect to this Agreement, or (2) enabling the Administration or the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated, such reports to be verified under oath.

Section 2. The contracting distillers also severally agree that, for the same purposes, or to enable the Administration or the Secretary to verify the information furnished on said forms of report, all their books and records, and the books and records of their affiliates and subsidiaries, shall during the usual hours of business be subject to the examination of the Administration or the Secretary.

Section 3. The contracting distillers shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall require their respective affiliates and subsidiaries to keep such books and records.

Section 4. All information furnished the Administration or the Secretary pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration or the Secretary respectively.

ARTICLE VII

Administration

Section 1. The provisions of this Agreement, except as otherwise provided, shall be administered by the Federal Alcohol Control Administration.

Section 2. The Administration and the Secretary shall each prescribe such regulations as may be reasonably necessary to carry out their respective functions under the provisions of this Agreement, and may make such interpretations of such provisions and regulations as they respectively deem necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Agreement.

Section 3. The Secretary of Agriculture may transfer to the Administration or any agency of the Government whose services the Administration may utilize in administering its functions under this Agreement, out of funds available for administrative expenses under the Agricultural Adjustment Act, such monies as may be necessary to pay administrative expenses incurred by the Administration or any such agencies in carrying out the provisions of this Agreement.

Section 4. The contracting distillers agree, through the agency of the Code Authority established pursuant to the Code of Fair Competition for the Distilled Spirits Industry, to cooperate with the Administration and the Secretary in carrying out this Agreement, and to this end the Code Authority shall have the following powers and duties: (a) to act as an agency through which the contracting distillers may make recommendations to effectuate the declared policy of the Act; and (b) to serve as one of the agencies through which reports of apparent violations of this Agreement may be received and reported to the Administration. In addition, the Code Authority shall have such powers and duties with respect to this Agreement as may be prescribed by regulations of the Administration. None of the foregoing powers of the Code Authority shall be deemed to limit the powers of the Administration.

Section 5. The Administration shall report to the Attorney General and the Secretary, for appropriate action by them, the facts found by the Administration with respect to any violation of this Agreement.

ARTICLE VIII

Licensing

Section 1. The contracting distillers hereby apply for and consent to licensing by the Secretary, subject to the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE IX

Effective Time

Section 1. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated as follows:

(a) The Secretary may at any time terminate this Agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory thereto, by giving at least one day's notice, by depositing the same in the mail and addressed to such party at his last known address.

(c) The Secretary shall terminate this Agreement upon the request of 75 percent of the contracting distillers, such percentage to be measured by the volume of distilled spirits produced, by giving notice in the same manner as provided in paragraph (a) above.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

ARTICLE X

I

Immunities

Section 1. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done prior thereto.

Section 2. This Agreement shall not be held to relieve any contracting distiller from compliance with any law relating to intoxicating beverages or any applicable marketing agreement, license, or code of fair competition entered into or issued pursuant to Act of Congress.

ARTICLE XI

Counterparts

Section 1. This Agreement may be executed in multiple counterparts, which when signed by the Secretary shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE XII

Additional Parties

Section 1. After this Agreement first takes effect any person not a party thereto who is engaged in the production of distilled spirits, may become a party to this Agreement, if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such new contracting party.

ARTICLE XIII

Agents

Section 1. The Secretary or the Administration may by designation in writing, name any person, including any officer or employee of the Government, to act as his or their agent in connection with carrying out their respective functions under any of the provisions of this Agreement.

ARTICLE XIV

Signatures of Parties

IN WITNESS WHEREOF the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

WHEREAS, it is provided by Section 8 of the Act as follows:

In order to effectuate the declared policy, the Secretary of Agriculture shall have power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States and any such agreement shall be deemed to be lawful; Provided, That no such agreement shall remain in force after the termination of this Act;

And --

WHEREAS, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder: and

WHEREAS, the Secretary finds (1) that the contracting distillers are engaged in the handling of distilled spirits in the current of interstate and foreign commerce; and (2) that the conditions existing in the marketing in intrastate commerce of commodities used for the manufacture of distilled spirits burden the marketing in interstate and foreign commerce of domestic agricultural commodities available for the manufacture of distilled spirits; and (3) that the marketing of such commodities and spirits in intrastate commerce is inextricably intermingled with their marketing and distribution in interstate and foreign commerce; and

WHEREAS, it appears, after due consideration, that this Agreement will tend to effectuate the policy of Congress declared in section 2 of the Act, as hereinbefore in this Agreement set forth:

NOW, THEREFORE, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the City of Washington, D. C., on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ Eastern Standard Time, _____.

(SEAL)

Secretary of Agriculture.